

Gulf Oil Company - U.S.

364 Maspeth Avenue
Brooklyn, New York 11211


April 29, 1982

USEPA
26 Federal Plaza
Solid Waste Branch
NY, NY 10278
Attn: Janet DeBiasio

During your inspection of our Greenpoint, NY Terminal on Tuesday, April 27, 1982, we were unable to find our copy of the Hazardous Waste Manifest showing that S & W Waste in South Kearney, NJ, did in fact receive this waste.

Attached is a copy of the signed manifest which we have received from S & W Waste.

Sincerely Yours,



W.G. Donohue
OFFICE MANAGER

cc: W. Krompinger



TREATMENT, STORAGE OR DISPOSAL (TSD) FACILITY	PHONE	
S & W Waste	201-344-4004	MS20070618163131
SITE ADDRESS		
53 Pennsylvania Ave. South Kearney, N.J. 07032		

THIS FORM IS NO. _____ OF A TOTAL OF _____ THE FIRST MANIFEST DOCUMENT NO. IS _____ NY _____

To Be TYPED by Generator

PROPER US DOT SHIPPING NAME	US DOT HAZARD CLASS	UN/NA NUMBER	FORM	NET QUANTITY	UNITS	CONTAINERS NO.	TYPE	EPA HAZ CODE	EPA WASTE TYPE
* Solid haz waste, NOS Kerosene	ORM-E Combustible	9189 1223	2	11,000	3	22	1		
1									
2									
3									
4									
5									
6									

SPECIAL HANDLING INSTRUCTIONS INCLUDING CONTAINER EXEMPTION (i.e. IDENTIFICATION OF ADDITIONAL WASTES INCLUDED IN SHIPMENT OF A NONHAZARDOUS NATURE WHICH DO NOT HAVE TO BE MANIFESTED)

* This material consists of Absorbent pads with small amount of Kerosene

GENERATOR'S CERTIFICATION. This is to certify that the herein named materials are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the EPA. The wastes described herein were consigned to the transporter named. The TSD Facility can and will accept the shipment of hazardous waste and has a valid permit to do so. This shipment also conforms with all applicable State regulations. I certify that the foregoing is true and correct to the best of my knowledge.

GENERATOR'S SIGNATURE <i>W.J. Kaiser</i> Please type name also W. J. KAISER	DATE SHIPPED 9/1/95	EXPECTED ARRIVAL DATE 9/1/95
TRANSPORTER NO. 1 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest." <i>[Signature]</i>	TRANSPORTER NO. 1 PERMIT NUMBER WV01A0217	DATE RECEIVED 9/1/95

COPY 4 TSD Facility—Retained by TSD Facility

Tear at this Perforation

Transporter—FILL OUT
TSD Facility—FILL OUT

Part B:		GEN	EPA	ID#	WV0050350204
TRANSPORTER NO. 1 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."		DATE DELIVERED		9/1/95	
TRANSPORTER NO. 2 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest."	TRANSPORTER NO. 2 PERMIT NUMBER	DATE RECEIVED		9/1/95	
TRANSPORTER NO. 2 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."		DATE DELIVERED		9/1/95	
TREATMENT STORAGE OR DISPOSAL FACILITY INDICATION OF ANY DIFFERENCES BETWEEN MANIFEST AND SHIPMENT OR LISTING OF REASONS FOR AND DISPOSITION OF REJECTED MATERIALS		HANDLING METHOD		1 2 3 4 5	
TREATMENT STORAGE OR DISPOSAL FACILITY SIGNATURE "Upon visual inspection, I certify that the contents of this shipment conform with the description on the manifest except those discrepancies noted on this form."		SIGNATURE		Nurah Bradley	
In case of emergency or spill immediately call the National Response Center (800) 424-8802 and the N.Y. Department of Transportation (516) 362-3622.		DOCUMENT NO.		NY 150000	

Facility—Retained by

TREATMENT, STORAGE OR DISPOSAL (TSD) FACILITY

PHONE

S & W Waste

201-344-4004

NYSDOT/CL/7/1/13

SITE ADDRESS

53 Pennsylvania Ave.

South Kearney, N.J. 07032

THIS FORM IS NO. _____ OF A TOTAL OF _____ THE FIRST MANIFEST DOCUMENT NO. IS _____ NY _____

	PROPER US DOT SHIPPING NAME	US DOT HAZARD CLASS	UN/NA NUMBER	FORM	NET QUANTITY	UNITS	CONTAINERS		EPA HAZ CODE	EPA WASTE
							NO.	TYPE		
1	Solid HAZ WASTE, NOS Kerosene	02M-E Combustible	9189 1223	2	11.098	3	212	61		
2										
3										
4										
5										
6										

SPECIAL HANDLING INSTRUCTIONS INCLUDING CONTAINER EXEMPTION (i.e. IDENTIFICATION OF ADDITIONAL WASTES INCLUDED IN SHIPMENT OF A NONHAZARDOUS NATURE WHICH DO NOT HAVE TO BE MANIFESTED)

* This material consists of Absorbent pads with small amount of Kerosene.

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GENERATOR'S SIGNATURE

W.J. Kaiser

Please type name also

W. J. KAISER

DATE SHIPPED

10/22/03

EXPECTED ARRIVAL

10/25/03

TRANSPORTER NO. 1 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest."

[Signature]

TRANSPORTER NO. 1 PERMIT NUMBER

NY10110217

DATE RECEIVED

10/25/03

COPY 4 TSD Facility—Retained by TSD Facility

Tear at this Perforation

Part B:

GEN

EPA

ID#

NYD059345784

TRANSPORTER NO. 1 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE DELIVERED

10/25/03

TRANSPORTER NO. 2 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest."

TRANSPORTER NO. 2 PERMIT NUMBER

[Blank]

DATE RECEIVED

[Blank]

TRANSPORTER NO. 2 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE DELIVERED

[Blank]

TREATMENT STORAGE OR DISPOSAL FACILITY INDICATION OF ANY DIFFERENCES BETWEEN MANIFEST AND SHIPMENT OR LISTING OF REASONS FOR AND DISPOSITION OF REJECTED MATERIALS

HANDLING METHOD

1		2	
3	30	4	
5		6	

TREATMENT STORAGE OR DISPOSAL FACILITY SIGNATURE "Upon visual inspection, I certify that the contents of this shipment conform with the description on the manifest except those discrepancies noted on this form."

SIGNATURE

[Signature] W. J. Kaiser

DATE RECEIVED

10/25/03

In case of emergency or spill immediately call the National Response Center (800) 424-8802 and the N.Y. Department of Transportation (518) 457-7362.

DOCUMENT NO.

NY

COPY 4 TSD Facility—Retained by TSD Facility

REPORT OF PHONE CALL

In _____ Out _____

File _____

Date 4/28/82 Time PM

Routing _____

Person Contacted RCRA Hotline

Phone No. _____

Location HQ

Subject Is the Bulk Oil Storage Facility part of the Petroleum Refining

Summary Industry? No - Therefore the waste
generated from the site is not subject to the
listing of wastes from a specific source.

Action Required _____

Tamara DeBrasio
Signature

TREATMENT, STORAGE OR DISPOSAL (TSD) FACILITY

PHONE

S & W Waste

201-344-4004

SITE ADDRESS

53 Pennsylvania Ave. South Kearney, N.J. 07032

THIS FORM IS NO. OF A TOTAL OF THE FIRST MANIFEST DOCUMENT NO. IS NY

PROPER US DOT
SHIPPING NAMEUS DOT
HAZARD CLASSUN/NA
NUMBER

FORM

NET
QUANTITY

UNITS

CONTAINERS
NO. TYPEEPA
HAZ
CODEEPA
WASTE1 Solid haz waste, nos
Kerosene201-E
Combustible9189
1223

2

11098

3

22

1

1

2 RECEIVED

3 N.Y.S.D.E.C.-REGION 2

4 MAY 4 1982

5 SOLID WASTE

SPECIAL HANDLING INSTRUCTIONS INCLUDING CONTAINER EXEMPTION (i.e. IDENTIFICATION OF ADDITIONAL WASTES INCLUDED IN SHIPMENT OF A NONHAZARDOUS NATURE WHICH DO NOT HAVE TO BE MANIFESTED)

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GENERATOR'S SIGNATURE

W.J. KAISER

Please type name also

W. J. KAISER

DATE SHIPPED

MAY 12 1982

EXPECTED ARRIVAL

MAY 15

TRANSPORTER NO. 1 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest."

TRANSPORTER NO. 1
PERMIT NUMBER

WV005039393939

DATE RECEIVED

MAY 15

COPY 4 TSD Facility—Retained by TSD Facility

Tear at this Perforation

Part B:

GEN EPA ID#

WV005039393939

TRANSPORTER NO. 1 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE DELIVERED

MAY 15

TRANSPORTER NO. 2 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest."

TRANSPORTER NO.2
PERMIT NUMBER

WV005039393939

DATE RECEIVED

MAY 15

TRANSPORTER NO. 2 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE RECEIVED

MAY 15

TREATMENT STORAGE OR DISPOSAL FACILITY INDICATION OF ANY DIFFERENCES BETWEEN MANIFEST AND SHIPMENT OR LISTING OF REASONS FOR AND DISPOSITION OF REJECTED MATERIALS

HANDLING METHOD

1 2
3 50 1
4 1
5 1

TREATMENT STORAGE OR DISPOSAL FACILITY SIGNATURE "Upon visual inspection, I certify that the contents of this shipment conform with the description on the manifest except those discrepancies noted on this form."

SIGNATURE

Worah
Bradley

DATE RECEIVED

MAY 15

In case of emergency or spill immediately call the National Response Center (800) 424-8802 and the N.Y. Department of Transportation (518) 457-7362.

DOCUMENT NO.

NY

COPY 4 TSD Facility—Retained by TSD Facility

TREATMENT, STORAGE OR DISPOSAL (TSD) FACILITY

PHONE

S & W Waste

201-344-4004

MSD 16 8/16/82

SITE ADDRESS

53 Pennsylvania Ave. South Kearney, N.J. 07032

THIS FORM IS NO. OF A TOTAL OF THE FIRST MANIFEST DOCUMENT NO. IS NY

PROPER US DOT
SHIPPING NAMEUS DOT
HAZARD CLASSUN/NA
NUMBER

FORM

NET
QUANTITY

UNITS

CONTAINERS
NO. TYPEEPA
HAZ
CODEEPA
WASTE TYPESolid HAZ WASTE, NOS
~~Kerosene~~ORM-E
~~Combustible~~9189
~~1223~~

3

11.0928

3

212

1

1

RECEIVED

N.Y.S.D.E.C.-REGION 2

MAY 4 1982

SOLID WASTE

SPECIAL HANDLING INSTRUCTIONS INCLUDING CONTAINER EXEMPTION (i.e. IDENTIFICATION OF ADDITIONAL WASTES INCLUDED IN SHIPMENT OF A NONHAZARDOUS NATURE WHICH DO NOT HAVE TO BE MANIFESTED)

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GENERATOR'S SIGNATURE

W.J. Kaiser

DATE SHIPPED

01 22 82

EXPECTED ARRIVAL DATE

01 25 82

Please type name also

W. J. KAISER

TRANSPORTER NO. 1 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest"

TRANSPORTER NO. 1
PERMIT NUMBER

NYNJ1A0217

DATE RECEIVED

01 25 82

COPY 4 TSD Facility--Retained by TSD Facility

Tear at this Perforation

Part B:

GEN EPA ID#

NYD059358294

TRANSPORTER NO. 1 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE DELIVERED

01 25 82

TRANSPORTER NO. 2 SIGNATURE "To the best of my knowledge the contents of the shipment I have accepted for transport conforms with the description on this manifest"

TRANSPORTER NO.2
PERMIT NUMBER

DATE RECEIVED

01 25 82

TRANSPORTER NO. 3 SIGNATURE "I certify that I have not tampered with or materially altered the contents of this shipment."

DATE DELIVERED

01 25 82

TREATMENT STORAGE OR DISPOSAL FACILITY INDICATION OF ANY DIFFERENCES BETWEEN MANIFEST AND SHIPMENT OR LISTING OF REASONS FOR AND DISPOSITION OF REJECTED MATERIALS

HANDLING METHOD

1		2	
3	50	4	
5		6	

TREATMENT STORAGE OR DISPOSAL FACILITY SIGNATURE "Upon visual inspection, I certify that the contents of this shipment conform with the description on the manifest except those discrepancies noted on this form."

SIGNATURE

W. J. Kaiser
Bradley Bradley

DATE RECEIVED

01 25 82

In case of emergency or spill immediately call the National Response Center (800) 424-8802 and the N.Y. Department of Transportation (516) 471-1862.

DOCUMENT NO.

NY 166228

Facility--Retained by

Certified Mail - Return Receipt Requested

Gulf Oil Company - U.S.

METRO NEW YORK-NEW JERSEY DISTRICT

M. A. Bean
GENERAL MANAGER

433 Hackensack Avenue
Hackensack, NJ 07601

NYD059358234

October 9, 1981

U.S.E.P.A. Region II
Information Service Center
26 Federal Plaza
New York, N. Y. 10007

Att: Mr. Harry Ruisi

Re: Interium Status Applications

Dear Sir:

The Gulf Greenpoint, N. Y. Marketing Terminal,
EPA ID Number NYD059358234 located at 364 Maspeth
Avenue, Brooklyn, N. Y. 11211 filed a protective
Part A RCRA Hazardous Waste Permit Application dated
November 7, 1980. Regulatory guidance has subsequently
clarified some of the misinterpretations of the
ambiguous provisions in the May 19, 1980 federal rules
which compelled this submittal.

Accordingly, Gulf requests that the subject RCRA/
Permit Application for its Greenpoint, N. Y. terminal
be withdrawn from consideration and returned to:

Gulf Oil Corporation
433 Hackensack Avenue
Hackensack, N. J. 07601
Attention: G. A. Metzger

Very truly yours,

GULF OIL COMPANY-U.S.

M. A. Bean

M. A. Bean
General Manager

/pms

OCT 9 2 32 PM '81
ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, N.Y. 10007

*maybe exempt
under
246?*

*201-488-4700
Generator*



A DIVISION OF GULF OIL CORPORATION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Jan. 23, 1981

NYD059358234

Informational Requests from RCRA Regulated Facilities

Clifford R. Lundin, Chief
Water Compliance Section - Permits Administration Branch

James Reidy, Chief
RCRA Permits Section - Water Permits Branch

Enclosed you will find copies of several letters of inquiry concerning the applicability of RCRA regulations to specific facilities or wastes. These represent the remainder of over 100 such requests received by my section. We have answered all questions within our areas of expertise. However, the attached letters demand a technical evaluation which would probably fall under the jurisdiction of your section.

Please contact me should you have any question.

Encl.

2PM-PA:Lundin:sj 1/23/81

CONCURRENCES

SYMBOL	2PM-PA							
SURNAME	Lundin							
DATE	1/23							

INSPECTOR'S NAME: ANNA SARACCO DATE OF INSPECTION: 4/27/82

NYS DEC, Region 2

BRANCH/ORGANIZATION: Tamiet Dibiasio, USEPA, Region 2

TIME OF DAY INSPECTION TOOK PLACE: Afternoon - 2 PM.

PERMIT SECTION
JUN 1 12 53 PM '82
ENVIRONMENTAL PROTECTION
NEW YORK, N.Y. 10007

- (1) Is there reason to believe that the facility has hazardous waste on site?
- a. If yes, what leads you to believe it is hazardous waste?
Check appropriate box:
- ☐ Company admits that its waste is hazardous during the inspection.
- ☐ Company admitted the waste is hazardous in its RCRA notification and/or Part A Permit Application.
- ☐ The waste material is listed in the regulations as a hazardous waste from a nonspecific source (§261.31)
- ☐ The waste material is listed in the regulations as a hazardous waste from a specific source (§261.32)
- ☐ The material or product is listed in the regulations as a discarded commercial chemical product (§261.33)
- ☐ EPA testing has shown characteristics of ignitability, corrosivity, reactivity or extraction procedure toxicity, or has revealed hazardous constituents (please attach analysis report)
- ☐ Company is unsure but there is reason to believe that waste materials are hazardous. (Explain)

YES NO DON'T
KNOW

- b. Is there reason to believe that there are hazardous wastes on-site which the company claims are merely products or raw materials?

___ ✓ ___

Please explain:

- c. Identify the hazardous wastes that are on-site, and estimate approximate quantities of each.

See generator inspection form

- (2) Does the facility generate hazardous waste? ___ ___ ___
- (3) Does the facility transport hazardous waste? ___ ✓ ___
- (4) Does the facility treat, store or dispose of hazardous waste? ___ ✓ ___

out sign posted at each
facility? _____

(6) Are there ignitable, reactive or incompatible wastes on site? (§265.27) _____

a. If "YES", what are the approximate quantities? _____

b. If "YES", have precautions been taken to prevent accidental ignition or reaction of ignitable or reactive waste? _____

c. If "YES", explain _____

d. In your opinion, are proper precautions taken so that these wastes do not: _____

- generate extreme heat or pressure, fire or explosion, or violent reaction? _____

- produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health? _____

- produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions? _____

- damage the structural integrity of the device or facility containing the waste? _____

- threaten human health or the environment? _____

Please explain your answers, and comment if necessary.

e. Are there any additional precautions which you would recommend to improve hazardous waste handling procedures at the facility?

(7) Does the facility comply with preparedness and prevention requirements including maintaining: (§265.32)

require all of the above procedures, or are some not needed? Explain.

In your opinion, do the types of wastes on site require all of the above procedures, or are some not needed? Explain.

- * (8) Have you inspected to verify that the groundwater monitoring wells (if any) mentioned in the facility's groundwater monitoring plan (see no. 19 below) are properly installed?

If you have, please comment, as appropriate.

- (9) a. Is there any reason to believe that groundwater contamination already exists from this facility?
If "YES", explain.
- b. Do you believe that operation of this facility may affect groundwater quality?
- c. If "YES", explain.

RECORDS INSPECTION

- (10) Has the facility received hazardous waste from an off-site source since Nov. 19, 1980 (effective date of the regulations)?
- a. If "YES", does it appear that the facility has a copy of a manifest for each hazardous waste load received?
- b. How many post-November 19 manifests does it have? (If the number is large, you may estimate)
- c. Does each manifest (or a representative sample) have the following information?
- a manifest document number

- a full description of the material

- the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle
- a certification that the materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation under regulations of the Department of Transportation and the EPA.

d. Are there any indications that unmanifested hazardous wastes have been received since November 19, 1980? If YES, explain.

(11) Does the facility have a written waste analysis plan specifying test methods, sampling methods and sampling frequency? (\$265.13)

a. Does the character of wastes handled at the facility change from day to day, week to week, etc., thus requiring frequent testing?
(You may check more than one)

Waste characteristics vary _____

All wastes are basically the same _____

Company treats all waste as hazardous _____

Don't know _____

b. Does hazardous waste come to this facility from off-site sources?

c. If waste comes from an off-site source, are there procedures in the plan to insure that wastes received conform to the accompanying manifest?

(12) INSPECTIONS (\$265.15)

a. Does the facility have a written inspection schedule?

b. Does the schedule identify the types of problems to be looked for and the frequency for inspections?

c. Does the owner/operator record inspections in a log?

d. Is there evidence that problems reported in the inspection log have not been remedied? If "YES," please explain.

- actual training or experience received by personnel?

Two men went to a school for hazardous waste. All had presentation on RCRA.

- (14) Does the facility have a written contingency plan for emergency procedures designed to deal with fires, explosion or any unplanned release of hazardous waste? (\$265.51)

- a. Does the plan describe arrangements made with local authorities?
- b. Has the contingency plan been submitted to local authorities?

How do you know?

- c. Does the plan list names, addresses, and phone numbers of Emergency Coordinators?
- d. Does the plan have a list of what emergency equipment is available?
- e. Is there a provision for evacuating facility personnel?
- f. Was an Emergency Coordinator present or on call at the time of the inspection?

- (15) Does the owner/operator keep a written operating record with: (\$265.73)

- a description of wastes received with methods and dates of treatment, storage or disposal?
- location and quantity of each waste?
- detailed records and results of waste analysis and treatability tests performed on wastes coming into the facility?
- detailed operating summary reports and description of all emergency incidents that required the implementation of the facility contingency plan?

- *(16) Does the facility have written closure and post-closure plans? (\$265.110)

- a. Does the written closure plan include:

- a description of how and when the facility will be partially (if applicable) and ultimately closed?

* Effective date for this requirement is May 19, 1981.

no longer be received and when final
closure will be completed? — — —

b. What is the anticipated date for final
closure? — — —

tc. Does the owner/operator have a written
post-closure plan identifying the activities
which will be carried on after closure and
the frequency of these activities? — — —

d. Does the written post-closure plan include:

- a description of planned groundwater
monitoring activities and their frequencies
during post-closure? — — —

- a description of planned maintenance activities
and frequencies to ensure integrity of final
cover during post-closure? — — —

- the name, address and phone number of a
person or office to contact during
post-closure? — — —

*(17) Does the owner/operator have a written estimate
of the cost of closing the facility? (§265.142)
What is it? — — —

*(18) Does the owner/operator have a written
estimate of the cost for post-closure
monitoring and maintenance?
What is it? (§265.144) — — —

*(19) Has a groundwater monitoring plan been submitted
to the Regional Administrator for facilities con-
taining a surface impoundment, landfill or land
treatment process? (This requirement does not
apply to recycling facilities.) (§265.90) — — —

a. Does the plan indicate that at least one monitoring
well has been installed hydraulically upgradient from
the limit of the waste management area? — — —

b. Does the plan indicate that there are at least three
monitoring wells installed hydraulically downgradient
at the limit of the waste management area? — — —

† This section applies only to disposal facilities.

* Effective date for this requirement is May 19, 1981.

Container p. 7

Incineration pp. 12-13

Surface Impound-
ment p. 8

Tank, above ground p. 8

Thermal Treatment pp. 12-13

Tank, below ground p. 8

Land Treatment pp. 9-10

Other _____

Other _____

Chemical, Physical p. 13
and Biological
Treatment (other than
in tanks, surface impound-
ment or land treatment
facilities)YESNODON'T
KNOW

Other _____

CONTAINERS (\$265.170)

1. Are there any leaking containers?
If "YES", explain.

2. Are there any containers which appear in danger
of leaking?
If "YES", explain.

3. Do wastes appear compatible with container
materials?

4. Are all containers closed except those in use?

5. Do containers appear to be opened, handled
or stored in a manner which may rupture the
containers or cause them to leak?

6. How often does the plant manager claim to inspect
container storage areas?

7. Does it appear that incompatible wastes are being
stored in close proximity to one another?
If "YES", explain.

8. Are containers holding ignitable or reactive
wastes located at least 15 meters (50 feet) from
the facility's property line?

9. What is the approximate number and size of
containers with hazardous wastes?

3. Are wastes or treatment reagents being placed in tanks which could cause them to rupture, leak, corrode or otherwise fail? If "YES", explain.

— — — ✓

4. Do uncovered tanks have at least 2 feet of freeboard or an adequate containment structure? *N/A.*

— — —

5. Where hazardous waste is continuously fed into a tank, is the tank equipped with a means to stop this inflow? *N/A.*

— — —

6. Does it appear that incompatible wastes are being stored in close proximity to one another, or in the same tank? If "YES", explain.

— — — ✓

7. How often does the plant manager claim to inspect container storage areas?

8. Are ignitable or reactive wastes stored in a manner which protects them from a source of ignition or reaction? If "YES", explain. *N/A.*

— — —

9. What is the approximate number and size of tanks containing hazardous wastes? *One, 550 gallon tank. Underground.*

SURFACE IMPOUNDMENTS (\$265.220)

1. Is there at least 2 feet of freeboard in the impoundment?

— — —

2. Do all earthen dikes have a protective cover to preserve their structural integrity? If "YES", specify type of covering.

— — —

3. Is there reason to believe that incompatible wastes are being placed in the same surface impoundment? If "YES", explain.

— — —

6. Give the approximate size of surface impoundments (gallons or cubic feet).

WASTE PILES (\$265.250)

1. Is the waste pile protected from wind erosion?
a. Does it appear to need such protection?
b. Explain what type of protection exists.
2. Does it appear that incompatible wastes are being stored in the same waste pile?
If "YES", explain.
3. Is leachate run-off from a pile a hazardous waste?
If "YES", explain this determination and answer (a) and (b) below.
a. Is the pile placed on an impermeable base that is compatible with the waste?
b. Is the pile protected from precipitation and run-on?
4. In your judgment, are ignitable or reactive wastes managed in such a way that they are protected from any material or conditions which may cause them to ignite?
Please explain or indicate if no such wastes are present.

Are they placed on an existing pile so that they no longer meet the definition of ignitable or reactive waste?
Please explain.

5. How many waste piles are on site, and approximately how large are they?

LAND TREATMENT (\$265.270)

1. Can the facility operator demonstrate that the hazardous waste has been made less or non-hazardous by biological degradation or chemical reactions occurring in or on the soil?
Please explain.

- will not be transferred to the crop or ingested by food chain animals or ___
- will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils. ___
- b. Has notification of the growing of the food chain crops been made to the Regional Administrator? ___
- 5. Is there a written and implemented plan for unsaturated zone monitoring? ___
- 6. Are there records of the application dates, application rates, quantities and location of each hazardous waste placed in the facility? ___
- 7. Do the closure and post-closure plans address:
 - a. control of migration of hazardous wastes into the groundwater? ___
 - b. control of run-off, release of airborne particulate contaminants? ___
 - c. compliance with requirements for the growth of food-chain crops (if they are present)? ___
- 8. Is ignitable or reactive waste immediately incorporated into the soil so the resulting waste no longer meets that definition? ___
If "YES", explain.
- 9. Are incompatible wastes placed in the same land treatment area? ___
If "YES", explain.
- 10. What is the area of the land receiving hazardous waste treatment? ___

LANDFILLS (§265.300)

- †1. Is run-on diverted away from the active portions of the landfill? ___
- †2. Is run-off from active portions of the landfill collected? ___

* Effective date for these requirements is May 19, 1981.

† These requirements are effective November 19, 1981.

- the contents of each cell and approximate location of each hazardous waste type

5. Do the closure and post-closure plans address:

- control of pollutant migration via ground water?
- control of surface water infiltration?
- prevention of erosion?

6. Is ignitable or reactive waste treated before being placed in the landfill? Explain how you know.

7. Are precautions taken to insure that incompatible wastes are not placed in the same landfill cell? If "NO", explain.

8. Are bulk or non-containerized wastes containing free liquids placed in the landfill? If "YES",

a. Does the landfill have a liner which is chemically and physically resistant to the added liquid?

b. Is the waste treated and stabilized so that free liquids are no longer present?

*9. Are containers holding liquid waste or waste containing free liquids placed in the landfill?

10. Are empty containers (e.g. those containing less than 1/2 inch of liquid) placed in the landfills?

If so, are they crushed flat, shredded or similarly reduced in volume before they are buried?

11. What is the approximate area of the hazardous waste landfill?

* Effective date for this requirement is November 19, 1981.

2. Was hazardous waste being incinerated or thermally treated during your inspection? _____
If "YES", answer all following questions.
If "NO", answer only questions 3 and 7.

3. Has waste analysis been performed (and written records kept) to include:

- heating value of the waste _____
- halogen content _____
- sulfur content _____
- concentration of lead _____
- concentration of mercury _____

NOTE: Waste analysis need not be performed on each waste load if
if there are documented data available to show waste characteristics
that do not vary. If there are such documented data available,
check here ☐.

4. Does it appear that the owner/operator brings his thermal treatment process to steady state (normal) conditions of operation before introducing hazardous wastes? _____

5. Did it appear during your inspection that there was adequate monitoring and inspection by owner/operator every 15 minutes during hazardous waste incineration for:

- waste feed _____
- auxiliary fuel feed _____
- air flow _____
- incinerator temperature _____
- scrubber flow _____
- scrubber pH _____
- relevant level controls _____

Every hour for:

- stack plume (color and opacity) _____

5. Is there open burning of hazardous waste? _____

6. Does the incinerator appear to be operating properly? (Do emergency shutdown controls and system alarms seem to be in good working order?) Please explain.

a. Is there any evidence of fugitive emissions?

7. Is the residue from the incinerator treated by the owner as a hazardous waste? Please explain.

8. What types of air pollution control devices (if any) are installed on the incinerator?

CHEMICAL, PHYSICAL AND BIOLOGICAL TREATMENT (\$265.400)

1. Does the treatment process system show any signs of ruptures, leaks, or corrosion? Please explain.

2. Is there a means to stop the inflow of continuously-fed hazardous wastes?

3. Is there ignitable or reactive waste fed into the treatment system?

If "YES", has it been treated or protected from any material or conditions which may cause it to ignite or react? If so, explain how.

Are the incompatible wastes placed in the same treatment process? If "YES", explain.

5. Describe the treatment system at this facility.

47-15-14(5/81)

PERMITS ADMIN. BRANCH
REGION II

JUN 1 12 58 PM '82

ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, N.Y. 10007

RCRA GENERATOR INSPECTION FORM

Report submitted by:
ANNA SARNICO,
NYSDEC, Region 2.

2

COMPANY NAME:

Gulf Oil Company

COMPANY ADDRESS:

364 Maspeth Avenue, Brooklyn, NY

COMPANY CONTACT OR OFFICIAL:

Mr. Krompfer, Operations Advisor

Bill Donohue, Office Manager

TITLE:

EPA I.D. NUMBER:

NYD 059358234 8

INSPECTOR'S NAME:

ANNA SARNICO, NYSDEC, Region 2

Donat DeBorsio, U.S.E.P.A., Region 2

BRANCH/ORGANIZATION:

CHECK IF FACILITY IS ALSO A TSD

FACILITY

☐

No, but registered
as a TSD for & filed a
Part B.

DATE OF INSPECTION:

4/27/82.

YES

NO

DON'T
KNOW

(1) Is there reason to believe that the facility has hazardous waste on site?

The company has 550 gallons of a mixture of waste crankcase oil & oil skimmed from the top of their oil-water separator,

a. If yes, what leads you to believe it is hazardous waste? Check appropriate box:

☐ Company admits that its waste is hazardous during the inspection.

☐ Company admitted the waste is hazardous in its RCRA notification and/or Part A Permit Application.

☐ The waste material is listed in the regulations as a hazardous waste from a nonspecific source (§261.31)

☐ The waste material is listed in the regulations as a hazardous waste from a specific source (§261.32)

☐ The material or product is listed in the regulations as a discarded commercial chemical product (§261.33)

☐ EPA testing has shown characteristics of ignitability, corrosivity, reactivity or extraction procedure toxicity, or has revealed hazardous constituents (please attach analysis report)

☐ Company is unsure but there is reason to believe that waste materials are hazardous. (Explain)

which has not been tested for EP Toxicity & flammability.

It goes to Culletta Bros, a recycler in Brooklyn

So that even if failed, the waste would be exempt.

We recommended that

they test the oil to see if it

fails EP Tox. & flammability.

YES

NO

DON'T
KNOW

- b. Is there reason to believe that there are hazardous wastes on-site which the company claims are merely products or raw materials?

Please explain:

- See comments { c. Identify the hazardous wastes that are on-site, and estimate approximate quantities of each.

There is a 550 gallon underground tank that contains a mixture of their crankcase oil from their trucks, and the oil skimmed off from the top of the oil-water separator.

- d. Describe the activities that result in the generation of hazardous waste.

They store gasoline, kerosene + #2 fuel oil for resale. The products are received by pipeline. The run off from the truck loading area + tank storage area goes into their oil-water separator.

- (2) Is hazardous waste stored on site? There is 550 gallons of waste crankcase oil + off from their oil-water separator on site.

- a. What is the longest period that it has been accumulated?

About 2 months.

- b. Is the date when drums were placed in storage marked on each drum?

The waste is stored in an underground tank. The tank has no labelling on it.

- (3) Has hazardous waste been shipped from this facility since November 19, 1980?

Gulf ships this crankcase oil + oil from their oil-water separator every 2 months to ~~Callelia Bros. Inc.~~ a recycling

- a. If "yes," approximately how many shipments were made?

- (4) Approximately how many hazardous waste shipments off site have been made since November 19, 1980?

- a. Does it appear from the available information that there is a manifest copy available for each hazardous waste shipment that has been made?

They had one shipment that they used a manifest for. It was for a spill of kerosene. There were 22 drums of absorbent pads with kerosene shipped to Sak + Son. This manifest may not have been

- b. If "no" or "don't know," please elaborate.

needed since kerosene pads is not a listed waste, & may not fail by characteristic.

YES NO DON'T KNOW

c. Does each manifest (or a representative sample) have the following information?

- a manifest document number *165298, NYS manifest* ✓ — —
- the generator's name, mailing address, telephone number, and EPA identification number ✓ — —
- the name, and EPA identification number of each transporter *Perbody Coastal* ✓ — —
- the name, address and EPA identification number of the designated facility and an alternate facility, if any: *Amherst* ✓ *am* —
- a description of the wastes (DOT) *from S+L* ✓ — —
- the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle ✓ — —
- a certification that the materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation under regulations of the Department of Transportation and the EPA ✓ — —

(5) Were there any hazardous wastes stored on site at the time of the inspection? *There was 530 gallons of a mixture of* — — —

a. If "yes," do they appear properly packaged (if in containers) or, if in tanks, are the tanks secure? *waste crankcase oil + oil from the top of their oil-water separator.* — — —

b. If not properly packaged or in secure tanks, please explain. *The tank is underground and was put in in 1969 + encased in concrete.* — — —

c. Are containers clearly marked and labelled? *Tank is not labelled.* — — —

d. Do any containers appear to be leaking? — — —

e. If "yes," approximately how many? — — —

Note: Gulf uses a small quantity of a solvent called Power-Solv Plus, American Power Prod., 675 West Jericho Tpk., Huntington NY 516-473-5885. They mix this with water 2 to 1 and use it as a degreaser. When the solvent is dirty, they put the water + solvent mixture in the tank with the waste. They use less than 30 gallon drum of the pure solvent per year.

YES : NO : DON'T KNOW

*(6) Has the generator submitted an annual report to EPA covering the previous calendar year?

a. How do you know?

N/A.

(7) Has the generator received signed copies (from the TSD facility) of all manifests for wastes shipped off site more than 35 days ago?

At the time of the inspection he did not have a receipt. Mr. Donohue, told me by phone that he found the receipt the next day. He sent me a signed copy that is attached.

a. If "no," have Exception Reports been submitted to EPA covering these shipments?

(8) General comments.

Gulf has a 550 gallon underground tank that is used to store the oil that is skimmed off the top of the oil-water separator and their crankcase oil. Gulf empties this tank every two or three months. This material is picked up by Calledia Bros., Maspeth Avenue Terminal, 362 Maspeth Avenue, Brooklyn. Gulf has not manifested this material since they are sending it to a recycler and are therefore exempt under 261.6. Gulf has not tested to determine whether this material is hazardous or not. Gulf is paid for the oil that is sent to Calledia according to Mr. Donohue.

The company will also generate other wastes from time to time. This includes,

Tank bottoms, occasionally when a tank is cleaned. No tanks have been cleaned in 5 years.

Sludge from the bottom of the oil-water separator - cleaned about every 3 years.

Spill clean-up material - when there is a spill.

* The effective date for this requirement is March 1, 1982.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

92 JUL -2 PM 3:12
ALBANY
BRANCH

-----X	
In the Matter of:	: COMPLAINT, COMPLIANCE ORDER
	: AND NOTICE OF OPPORTUNITY
Gaseteria Oil Corporation	: FOR HEARING
364 Maspeth Avenue	:
Brooklyn, NY 11211,	:
	:
Respondent	:
	: Docket No.
Proceeding Under Section 9006	: II RCRA-UST-92-0210
of the Solid Waste Disposal Act,	:
as amended.	:
-----X	

NYD 059 358 234

COMPLAINT

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA"), the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), and the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. § 6991 et seq. (the "Act").

Complainant in this proceeding, Constantine Sidamon-Eristoff, Regional Administrator of the United States Environmental Protection Agency, Region II, ("EPA") has been duly delegated the authority to institute this action.

1. Respondent is Gaseteria Oil Corporation.
2. Respondent is a "person" within the meaning of Section 9001(6) of the Act, 42 U.S.C. § 6991(6), and 40 C.F.R. § 280.12.
3. Respondent is the "operator" of "underground storage tank" systems or "UST" systems, as those terms are defined in Section 9001(1) and (4) of the Act, 42 U.S.C. § 6991(1) and (4), and in 40 C.F.R. § 280.12, located at the following sites listed in Table 1 (hereinafter, "Table 1").

4. Respondent is the owner and/or operator of twenty (20) out-of-service UST systems, ten (10) located at [CBI Deleted] and ten (10) located at [CBI Deleted].
5. Pursuant to §§ 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules pertaining to owners and operators of UST systems, set forth at 40 C.F.R. Part 280.
6. Pursuant to 40 C.F.R. § 280.12, EPA is the "implementing agency" responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto.
7. On February 26, 1992, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, authorized representatives of EPA met with Respondent's representatives to discuss and review Respondent's New York State Department of Environmental Conservation Petroleum Bulk Storage Certificates ("NYSPBS"), inventory control methods and the status of Respondent's compliance with the Act and with 40 C.F.R. Part 280 (the "EPA Meeting").
8. On April 6, 1992, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C.F.R. § 280.34, EPA issued an Information Request letter to Respondent to determine compliance with the Act and with 40 C.F.R. Part 280. Complainant received Respondent's replies to the April 6, 1992 Information Request on May 15, 1992, and June 1, 1992.

Count 1

9. Complainant realleges each allegation contained in Paragraphs "1" through "8" with the same force and effect as if fully set forth herein.
10. Respondent is the operator of the 305 UST systems listed in Table 2 of this Complaint (hereinafter, "Table 2").
11. Under 40 C.F.R. § 280.40, owners and operators of UST systems must provide a method or combination of methods of release detection that meets the requirements of 40 C.F.R. Part 280, Subpart D, in accordance with the following "Schedule for Phase-in of Release Detection:"

Year system was installed	Year when release detection is required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD

New tanks (after December 22) immediately upon installation

P = release detection for pressurized piping

RD = release detection for tanks and suction piping

12. The 305 UST systems listed in Table 2 of this Complaint are required to meet the underground storage tank release detection requirements set forth in 40 C.F.R. § 280.41(a).
13. The 305 UST systems listed in Table 2 do not have a method or combination of methods of release detection for underground storage tanks in accordance with 40 C.F.R. § 280.41(a).
14. Respondent's failures to provide a method or combination of methods of release detection for underground storage tanks, as alleged in Paragraph "13," above, for the 305 UST systems listed in Table 2, constitute violations of 40 C.F.R. § 280.41(a).

Count 2

15. Complainant realleges each allegation contained in Paragraphs "1" through "8" and in Paragraphs "10" and "11," with the same force and effect as if fully set forth herein.
16. The 305 UST systems listed in Table 2 of this Complaint are required to meet the release detection requirements for underground piping set forth in 40 C.F.R. § 280.41(b).
17. The 305 UST systems listed in Table 2 do not have a method or combination of methods of release detection for underground piping in accordance with 40 C.F.R. § 280.41(b).
18. Respondent's failures to provide a method or combination of methods of release detection for underground piping, as alleged in Paragraph "17,"

above, for the 305 UST systems listed in Table 2, constitute violations of 40 C.F.R. §§ 280.41(b).

Count 3

19. Complainant realleges each allegation contained in Paragraphs "1" through "8" with the same force and effect as if fully set forth herein.
20. In accordance with 40 C.F.R. § 280.70(c), the owner and operator of an UST system temporarily closed for more than 12 months must permanently close the UST system if it does not meet either performance standards in 40 C.F.R. § 280.20 for new UST systems or the upgrading requirements in 40 C.F.R. § 280.21, with certain exceptions.
21. The owner and operator must permanently close such a substandard UST system at the end of this 12-month period in accordance with 40 C.F.R. §§ 280.71 through 280.74.
- ✓ 22. Respondent's UST systems described in Paragraph "4," above, located at [CBI Deleted] and [CBI Deleted] were taken out of service on or about [CBI Deleted] and [CBI Deleted], respectively.
23. The UST systems referred to in Paragraph "22," above, failed to meet the standards of 40 C.F.R. § 280.20 or the requirements of 40 C.F.R. § 280.21.
24. Respondent has not permanently closed the UST systems referred to in Paragraph "22," above, in accordance with 40 C.F.R. §§ 280.71 through 280.74.
25. Respondent's failures to meet UST closure requirements, as alleged in Paragraphs "22" through "24," above, for the UST systems referred to in Paragraph "22," constitute violations of 40 C.F.R. § 280.70(c).

Count 4

26. Complainant realleges each allegation contained in Paragraphs "1" through "8" with the same force and effect as if fully set forth herein.
27. Under Section 9005(a) of the Act, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34, owners and operators of UST systems must, upon request, furnish information pertaining to such UST systems to the implementing agency.

28. On April 6, 1992, EPA issued an Information Request letter to Respondent to determine compliance with the Act and with 40 C.F.R. Part 280.
29. The April 6, 1992 Information Request referred to in Paragraph "28," above, required Respondent to provide the following information, designated as Items 5 and 6 of Attachment II to the Information Request letter:
 - "5. Which UST systems, if any, use pressurized piping.
 6. The methods of release detection relied on, pursuant to 40 C.F.R. §§ 280.40, 280.41, and 280.42, if any, for each UST system, and the time period during which such methods have been employed. Explicitly state when release detection is not used for any UST system."
30. Complainant received Respondent's replies to the April 6, 1992 Information Request on May 15, 1992, and June 1, 1992.
31. Respondent's replies to the Information Request did not include any information responsive to Items 5 and 6 of Attachment II.
32. Respondent's failure to furnish any information in response to Items 5 and 6 of Attachment II, as alleged in Paragraph "31," above, constitutes a violation of Section 9005(a) of the Act, 42 U.S.C. § 6991d(a) and of 40 C.F.R. § 280.34.

PROPOSED CIVIL PENALTY

Section 9006(d)(2)(A) of the Act, authorizes the assessment of a civil penalty of up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. Based upon the facts alleged in this Complaint and taking into account the circumstances of the violation, the environmental threat posed by the situation and any good faith efforts by Respondent to comply with the applicable requirements, Complainant proposes to assess a civil penalty of \$5,591,657. The penalty is assessed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November, 1990.

The total penalties assessed the Respondent for all counts amount to:

\$ 2,831,657	Count 1: Release Detection for Tanks
\$ 2,592,000	Count 2: Release Detection for Piping
\$ 165,000	Count 3: Closure
\$ 3,000	Count 4: Information Request

TOTAL PENALTY AMOUNT \$5,591,657.00

COMPLIANCE ORDER

Based on the foregoing, and pursuant to the authority of Section 9006 of the Act, Complainant hereby issues the following Compliance Order against Respondent:

1. Respondent shall, within thirty (30) days of the effective date of this Compliance Order, provide a method or combination of methods of release detection for all underground storage tanks owned or operated by it that were installed before 1975 or that are of unknown age, pursuant to 40 C.F.R. § 280.41(a).
2. Respondent shall, within thirty (30) days of the effective date of this Compliance Order, provide a method or combination of methods of release detection for all underground piping owned or operated by it that is part of an UST system installed before 1975 or that is of unknown age, pursuant to 40 C.F.R. § 280.41(b).
3. Respondent shall, within thirty (30) days of the effective date of this Compliance Order, permanently close the UST systems located at [CBI Deleted] and [CBI Deleted] by complying with the closure requirements in 40 C.F.R. §§ 280.71 through 280.74.
4. Respondent shall, within fifteen (15) days of the effective date of this Compliance Order, furnish complete and accurate responses to EPA with respect to Items 5 and 6 of Attachment II to the Information Request letter issued on April 6, 1992.

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. § 6991e(a)(3), a violator failing to comply with a Compliance Order within the time specified in the Order is liable for a civil penalty of up to \$25,000 for each day of continued noncompliance.

OPPORTUNITY TO REQUEST A HEARING

EPA intends to assess the total proposed penalty in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter, "Consolidated Rules"). These rules provide you with the right to request a formal Hearing to contest any material fact(s) set forth in this complaint, to contest the appropriateness of the amount of the proposed penalty, or to contest the terms of the Compliance Order.

Consistent with the provisions of § 9006(b) of the Act, should you request a public hearing, notice of the hearing will be provided, and the hearing will be open to the general public. In the absence of your making such a specific request, however, public notice of the scheduled hearing will not be published.

To avoid being found in default and having the above-cited penalty assessed without further proceedings, you must file a written Answer to this Complaint, including a request for a formal Hearing, with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, within thirty (30) days of receipt of this Complaint.

Your Answer should clearly and directly admit, deny, or explain each of the factual allegations in this Complaint of which you have any knowledge. Your Answer should contain (1) a definite statement of the facts that constitute the grounds of defense, and (2) a concise statement of the facts that you intend to place in issue at the Hearing.

The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a Hearing. Failure to deny any of the factual allegations in this Complaint constitutes admission of the undenied allegation(s). Your failure to file a written Answer within thirty (30) days of receipt of this Complaint will constitute an admission of all facts alleged in the Complaint and a waiver of your right to a formal Hearing to contest any facts alleged or the penalty assessed in the Complaint. In such event, a Final Order of Default may be issued by the Regional Administrator, and/or the

civil penalties proposed herein will be imposed without any further proceedings.

Any Hearing that you request will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). Hearings held on the appropriateness of civil penalties under the Act will be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. § 552 et seq.) and the Consolidated Rules; a copy of these rules accompanies this Complaint.

INFORMAL SETTLEMENT CONFERENCE

Whether or not you request a Hearing, the EPA encourages settlement of this proceeding consistent with the provisions of the Act. At an informal conference, you may comment on the charges made in the Complaint, and you may also provide whatever additional information that you believe is relevant to the disposition of this matter, including (1) actions you have taken to correct the violations, (2) the effect the proposed penalty would have on your ability to continue in business, or (3) any other special circumstances you care to raise. EPA has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with you in an informal settlement conference, or to recommend that the Regional Administrator dismiss any or all of the charges, if the circumstances so warrant. Any request for such a conference or any questions that you may have regarding this Complaint should be directed to Katherine Yagerman, Assistant Regional Counsel, Air, Waste and Toxic Substances Branch, Office of Regional Counsel, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264-9686.

Please note that a request for an informal settlement conference does not extend the thirty (30)-day period during which a written Answer and request for a Hearing must be submitted. The informal conference procedure may be pursued either as an alternative to or simultaneously with the adjudicatory Hearing procedure. However, no penalty reduction will be made simply because such a conference is held. Any settlement that may be reached as a result of such a conference shall be embodied in a written Consent Agreement and Consent Order to be issued by the Regional Administrator of the EPA, Region II, and signed by you or your representative. Your signing of such Consent Agreement shall constitute a waiver of your right to request a Hearing on any matter stipulated to therein.


If you have neither effected a settlement by informal conference nor requested a Hearing within the thirty (30)-day

period cited above, the assessed penalty will be imposed without any further proceedings.

PAYMENT OF PENALTY

Instead of filing an Answer, requesting a Hearing, or requesting an informal settlement conference, you may choose to comply with the terms of the Compliance Order and to pay the proposed penalty. Such payment should be made by sending a cashier's or certified check payable to the Treasurer, United States of America, in the full amount of the penalty assessed in this Complaint to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, P.O. Box 360188M, Pittsburgh, Pennsylvania 15251. If you elect to pay the penalty in this manner, a copy of your letter transmitting the check and a copy of the check should be sent to the attention of the EPA attorney listed previously.

Dated: 6/30/92, 1992


Constantine Sidamon-Eristoff
Regional Administrator
U.S. Environmental Protection
Agency - Region II
26 Federal Plaza
New York, NY 10278

TO: Oscar Porcelli, President
Gaseteria Oil Corporation
364 Maspeth Avenue
Brooklyn, New York 11211

Enclosure

cc: John Middelkoop, Hazardous Waste Facility Compliance
Division, NYSDEC
Richard Williams, Division of Enforcement, NYSDEC
Thomas Quinn, Bulk Storage Program, NYSDEC

bcc: George Meyer
John Gorman
Betsy Donovan
David Bernstein
Katherine Yagerman
Mary Breitenbach
Laura Livingston
Bob Small

CERTIFICATE OF SERVICE

This is to certify that on the 1st day of July 1992, I served a true and correct copy of the foregoing Complaint and copy of the Consolidated Rules of Practice by certified mail, return receipt requested, to Oscar Porcelli, President, Gaseteria Oil Corporation, 364 Maspeth Ave., Brooklyn, New York 11211. I hand carried the original and a copy of foregoing Complaint to the Regional Hearing Clerk.

Doris A. Heaton

NYD059358 234

U.S. EPA
AGENCY RO II

94 APR 32 PM 12:55
INFO. SERV. SEC.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

JACOB K. JAVITS FEDERAL BUILDING

NEW YORK, NEW YORK 10278-0012

APR 29 1994

Seth D. Friedland, Esq.
Friedland Fishbein Laifer & Robbins
The Woolworth Building
233 Broadway
New York, NY 10279

Re: **In the Matter of Gaseteria Oil Corporation**
Docket No. II RCRA-UST-92-0210

Dear Seth:

Enclosed please find one original copy of the Consent Agreement/Consent Order issued in the above-referenced matter. Pursuant to paragraph 1 on pages 10 - 11, within two weeks of the date of issuance (April 28, 1994), Gaseteria Oil Corporation shall submit the Stipulation and Proposed Order to the Bankruptcy Court for approval.

If you have any questions regarding this matter, please feel free to phone me.

Sincerely,

Katherine S. Yagerman

Katherine S. Yagerman
Assistant Regional Counsel
Air, Waste & Toxic Substances
Branch
Office of Regional Counsel
212) 264-9686

cc: Lawrence Nadler, Director
Bureau of Hazardous Substances Programs, NYSDEC
Deborah Christian, Assistant Counsel
Division of Enforcement, NYSDEC

bcc: John Gorman, 2AWM-HWC
Mary Elizabeth Donovan, 2AWM-HWC
Katherine Yagerman, 2ORC-AWTS
Carolyn Carr, WH-527
Joseph Clore, 2PM-IS
Ron Gherardi, 2OPM-FIN
Mary Breitenbach, 2EPD
Philip Flax, 2AWM-HWC
Thomas Quinn, NYSDEC
Shari Chrimes, Esq., NYSDEC
Milton Robinson, OE
Josh Baylson, OUST
Christine Chung, AUSA, S.D.N.Y
Alex Beehler, DOJ

SEP 2 2 24 PM '80

ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, NY 10007



GULF SOUTH RESEARCH INSTITUTE

Post Office Box 26518

New Orleans, Louisiana 70185

Telephone 504 281-4221

August 28, 1980

Mr. Harry Ruist
United States Environmental Protection Agency
Region II
Information Service Center
26 Federal Plaza
New York, NY 10278

Dear Mr. Ruist:

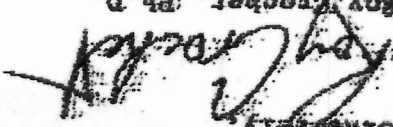
This letter is to confirm the telephone conversation I had with Mr. Tom Taccone, August 27, 1980, seeking written confirmation for the exclusion of a proprietary iron oxide material.

As Mr. Taccone concluded, this iron oxide material should be excluded from regulation as a hazardous waste since it does not conform to the characteristics of a hazardous waste as outlined in Subpart C (sections 261.20-261.24) on pages 33121 and 33122 of the Federal Register promulgating the EPA regulations identifying and listing hazardous wastes. The report was published under section 3001 of the Resources Conservation and Recovery Act (RCRA) in the Federal Register, Volume 45, Number 98, on May 19, 1980.

Laboratory evaluations were performed at Gulf South Research Institute to determine the ignitability, corrosivity, reactivity, and the presence of heavy metals and pesticides of the iron oxide material as prescribed in the regulations. All results were well below the accepted EPA limits stated in the above mentioned guidelines. Furthermore, iron oxide is not listed or even referred to in Subpart D - "List of Hazardous Wastes" (sections 261.30-261.33) pages 47831 to 47836 of the Federal Register, Volume 45, Number 138, on July 16, 1980. We also have evidence that this material is non-toxic as proven by animal LD₅₀ studies. We can provide documentation of these tests if needed. However, Mr. Taccone indicated that this was not needed at present.

As I told Mr. Taccone, our client (Ironite Products Co. of St. Louis, Mo.) wishes to purchase and store this material in the Region II area and plans to conform to regulatory criteria as designated by federal, state, and local authorities. Please note that the notification form for a hazardous waste is not included with this letter since EPA guidelines do not list the oxide material as a hazardous waste, and our evaluations based on prescribed EPA test protocols confirm that the material should be excluded.

Since our client is anxious to proceed on this matter, we would appreciate your confirmation of the exemption of this material as soon as possible. Please call me if additional information is needed.

Sincerely,

Roy Trocher, Ph.D.
Senior Research Chemist

cc Dr. K. Meek
Dr. S. Gupta
RC/KJ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X
In the Matter of:

Gaseteria Oil Corporation
364 Maspeth Avenue
Brooklyn, NY 11211,

Respondent

Proceeding Under Section 9006 of
the Solid Waste Disposal Act,
as amended.
-----X

:
:
: **CONSENT AGREEMENT**
: **AND CONSENT ORDER**
:
:
: Docket No.
: **II RCRA-UST-92-0210**
:
:

PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA"), the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), and the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. §§ 6901 et seq. (the "Act").

Under Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules pertaining to owners and operators of Underground Storage Tank ("UST") systems. Such rules and regulations are set forth at 40 C.F.R. Part 280. Section 9006 of the Act, 42 U.S.C. § 6991(e), authorizes EPA to enforce the provisions which pertain to owners and operators of UST systems.

The Complainant in this proceeding, William J. Muszynski, Acting Regional Administrator of the United States Environmental

Protection Agency ("EPA"), Region II, issued a Complaint and Notice of Opportunity for Hearing to Respondent, Gaseteria Oil Corporation, on June 30, 1992. The Complaint alleged that Respondent violated regulations promulgated under the Act.

Respondent submitted its Answer on or about September 21, 1992. The matter was subsequently assigned to the Office of Administrative Law Judges.

The Complainant and Respondent agree that it is in their interests for this case to be resolved by entering into this Consent Agreement and Consent Order without prolonged and costly litigation.

FINDINGS

1. Respondent is Gaseteria Oil Corporation.
2. Respondent is a "person" within the meaning of Section 9001(6) of the Act, 42 U.S.C. § 6991(6), and 40 C.F.R. § 280.12.
3. Respondent is the "operator" of "underground storage tank" systems or "UST" systems, as those terms are defined in Section 9001(1) and (4) of the Act, 42 U.S.C. § 6991(1) and (4), and in 40 C.F.R. § 280.12. The UST systems which were operated by Respondent as of the dates release detection was first required and which are the subject of this proceeding are identified in the attached Table 1 by service station location, New York State Petroleum Bulk Storage Number ("PBS Number"), tank number, and tank age. Table 1 is incorporated by reference into these Findings.

4. Respondent was the operator of twenty (20) out-of-service UST systems, identified in Table 2 as PBS Nos. 191701 and 191728. Table 2 is incorporated by reference into these Findings.

5. Pursuant to §§ 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules pertaining to owners and operators of UST systems, set forth at 40 C.F.R. Part 280.

6. Pursuant to 40 C.F.R. § 280.12, EPA is the "implementing agency" responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which were set forth in the Complaint.

7. Releases of petroleum into the environment from underground storage tanks and associated piping may present an imminent and substantial endangerment to health or the environment. The risk of imminent and substantial endangerment is greatly increased when such releases occur in densely populated areas and/or over sole source aquifers.

8. On February 26, 1992, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, authorized representatives of EPA met with Respondent's representatives to discuss and review Respondent's New York State Department of Environmental Conservation Petroleum Bulk Storage ("NYSPBS") Certificates, inventory control methods and the status of Respondent's compliance with the Act and with 40 C.F.R. Part 280 (the "EPA Meeting").

9. On April 6, 1992, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C.F.R. § 280.34, EPA issued an Information Request letter to Respondent to determine compliance with the Act and with 40 C.F.R. Part 280. Complainant received Respondent's replies to the April 6, 1992 Information Request under cover of two letters, one dated May 14, 1992, and one dated May 28, 1992.

10. Under 40 C.F.R. § 280.40, owners and operators of UST systems must provide a method or combination of methods of release detection that meets the requirements of 40 C.F.R. Part 280, Subpart D, in accordance with the following "Schedule for Phase-in of Release Detection:"

Year system was installed	Year when release detection is required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD

New tanks (after December 22) immediately upon installation
P = release detection for pressurized piping
RD = release detection for tanks and suction piping

Under 40 C.F.R. §§ 280.34 and 280.45 records demonstrating compliance with release detection for tanks and piping must be maintained and must be readily available for inspection.

11. The 293 UST systems operated by Respondent and identified in Table 1 were required to meet the underground storage tank release detection requirements set forth in 40 C.F.R. § 280.41(a), in accordance with the Schedule for Phase-in of Release Detection set forth in Paragraph 10.

12. As evidenced by statements made at the EPA Meeting, Respondent's responses to the Information Request, and by Respondent's NYSPBS Applications, the 293 UST systems referred to in Paragraph 11, above, did not have a method or combination of methods of release detection for underground storage tanks as required by 40 C.F.R. § 280.41(a).

13. Respondent's failures to implement a method or combination of methods of release detection for underground storage tanks have resulted in a substantial and continuing risk to human health and the environment due to the likelihood of releases continuing undetected for prolonged periods of time in the absence of a reliable method of release detection.

14. Respondent's failures to provide a method or combination of methods of release detection for underground storage tanks for the 293 UST systems referred to in Paragraph 11, above, constitute violations of 40 C.F.R. § 280.41(a).

15. The 293 UST systems referred to in Paragraph 11, above, were required to meet the release detection requirements for underground piping set forth in 40 C.F.R. § 280.41(b), in accordance with the Schedule for Phase-in of Release Detection set forth in Paragraph 10.

16. As evidenced by statements made at the EPA Meeting, Respondent's responses to the Information Request, and Respondent's NYSPBS Applications, the 293 UST systems referred to in Paragraph 11, above, did not have a method or combination of

methods of release detection for underground piping in accordance with 40 C.F.R. § 280.41(b).

17. Respondent's failures to implement a method or combination of methods of release detection for underground piping have resulted in a substantial and continuing risk to human health and the environment due to the likelihood of releases continuing undetected for prolonged periods of time in the absence of a reliable method of release detection.

18. Respondent's failures to provide a method or combination of methods of release detection for underground piping for the 293 UST systems referred to in Paragraph 11, above, constitute violations of 40 C.F.R. §§ 280.41(b).

19. Steel UST systems and associated piping that are not protected from corrosion are likely to experience breakthrough from corrosion within ten to twenty years of installation. 53 Fed. Reg. 37,082, at 37,088 (Sept. 23, 1988).

20. Failure to provide a method or a combination of methods of release detection for underground storage tanks and/or associated piping systems that are more than twenty years old and that are not protected from corrosion results in a higher likelihood of the occurrence of continuing, undetected releases. 53 Fed. Reg. 37,082, at 37,142 (Sept. 23, 1988).

21. In addition to failures due to corrosion, the major causes of releases from UST systems are due to leaks in delivery piping, leaks from vent pipes and fittings on top of the tank,

and spill and overfill errors. 53 Fed. Reg. 37,082, at 37,088 (Sept. 23, 1988).

22. Releases occur from the piping components of UST systems approximately twice as frequently as from bare steel tanks. When piping fails, pressurized systems pose a significant added threat of sudden, large releases. 53 Fed. Reg. 37,082, at 37,088-89 (Sept. 23, 1988).

23. Continuing, undetected releases from underground storage tanks and/or their associated piping systems may endanger human health and/or the environment due to the location of the tanks over state-designated sole source aquifers, and because of their proximity to homes and commercial establishments in the densely-populated New York City metropolitan area.

24. In accordance with 40 C.F.R. § 280.70(c), the owner and operator of an UST system temporarily closed for more than 12 months must permanently close the UST system if it does not meet either performance standards in 40 C.F.R. § 280.20 for new UST systems or the upgrading requirements in 40 C.F.R. § 280.21, with certain exceptions.

25. The owner and operator must permanently close such a substandard UST system at the end of this 12-month period in accordance with 40 C.F.R. §§ 280.71 through 280.74. Section 280.74 requires owners and operators to maintain records demonstrating compliance with closure requirements, and § 280.34(c) requires that such records be readily available for inspection.

26. Respondent's UST systems identified in Table 2 and located at 3320 Atlantic Avenue, Brooklyn, New York (PBS # 191701) and 111-10 Springfield Boulevard, Queens, New York (PBS # 191728) were taken out of service on or about August 1990, and April 1990, respectively.

27. The UST systems referred to in Paragraph 26, above, failed to meet the standards of 40 C.F.R. § 280.20 or the requirements of 40 C.F.R. § 280.21.

28. As of the date of issuance of the Complaint, Respondent had not permanently closed the UST systems referred to in Paragraph 26, above, in accordance with 40 C.F.R. §§ 280.71 through 280.74.

29. Respondent's failures to meet UST closure requirements, for the UST systems referred to in Paragraph 26, above, constitute violations of 40 C.F.R. § 280.70(c).

30. Under Section 9005(a) of the Act, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34, owners and operators of UST systems must, upon request, furnish information pertaining to such UST systems to EPA.

31. On April 6, 1992, EPA issued an Information Request letter to Respondent to determine compliance with the Act and with 40 C.F.R. Part 280.

32. The April 6, 1992 Information Request required Respondent to provide the following information, designated as Items 5 and 6 of Attachment II to the Information Request letter:

"5. Which UST systems, if any, use pressurized piping.

6. The methods of release detection relied on, pursuant to 40 C.F.R. §§ 280.40, 280.41, and 280.42, if any, for each UST system, and the time period during which such methods have been employed. Explicitly state when release detection is not used for any UST system."

33. Respondent's replies to the Information Request, dated May 14, 1992 and May 28, 1992, did not include any information responsive to Items 5 and 6 of Attachment II.

34. Respondent's failures to furnish any information in response to Items 5 and 6 of Attachment II constitute violations of Section 9005(a) of the Act, 42 U.S.C. § 6991d(a) and of 40 C.F.R. § 280.34.

35. Respondent and affiliated corporations filed for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York on December 22, 1992 (Docket Numbers 92 B 47048 (PBA) through 92 B 47058 (PBA)) (the "Bankruptcy Proceeding").

36. On behalf of the EPA, the United States Attorney for the Southern District of New York filed a proof of claim against the Respondent in the Bankruptcy Proceeding on account of the civil penalties sought in the Complaint.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 9006, and Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, the parties consent to the following:

1. A civil penalty in the amount of Three Million Dollars (\$3,000,000) is assessed against Respondent in this matter. Respondent hereby agrees that in full payment, satisfaction, and settlement of this penalty it will pay to the United States Treasury the amount of Three Hundred, Thirty-nine Thousand Dollars (\$339,000) in the following fashion:

- (a) Respondent shall allow a General Unsecured Claim in the Bankruptcy Proceeding in the amount of \$3,000,000 on account of the civil penalty assessed herein (the "Allowed General Unsecured Claim");
- (b) Respondent shall distribute, pursuant to a Plan of Reorganization, the sum of \$339,000 to the United States Treasury, in full payment, satisfaction, and settlement of the Allowed General Unsecured Claim;
- (c) Distribution pursuant to the Plan of Reorganization shall be made within twenty (20) days of the date of entry of the Order of Confirmation in the Bankruptcy Proceeding by cashier's or certified check made payable to the Treasurer, United States of America, identified as Gaseteria Oil Corporation, Docket No. II RCRA-UST-92-0210, and mailed to the EPA - Region II (Regional Hearing Clerk), P.O. Box 360188m, Pittsburgh, Pennsylvania 15251; and
- (d) Respondent shall mail a copy of the instrument of payment to Katherine Yagerman, Esq., EPA Region II, Office of Regional Counsel, Room 400, and to Mary Elizabeth Donovan, EPA Region II, Air and Waste Management Division, Room 1000, both at 26 Federal Plaza, New York, New York 10278.

Complainant hereby acknowledges and agrees that the payment of \$339,000 pursuant to Paragraph 1(b) shall fully and completely

satisfy, settle, and resolve any and all monetary claims by EPA for penalties under the Complaint herein. Within two (2) weeks of issuance of this Consent Agreement and Consent Order, the Respondent shall submit for approval pursuant to the Federal Rules of Bankruptcy Procedure Rule 9019 a Stipulation and Proposed Order to the Bankruptcy Court incorporating the terms set forth in this paragraph of the Consent Agreement and Consent Order, and the terms contained in this paragraph shall not be binding upon the parties unless and until the Stipulation and Order is approved by the Bankruptcy Court. In the event that the Bankruptcy Court does not approve the terms stated herein, the parties will be released from the Findings specified in Paragraphs 12 - 18, above, and from the obligations specified in this paragraph, and EPA reserves its right to seek all civil penalties proposed in the Complaint in this administrative proceeding and Respondent reserves its right to contest liability under Counts 1 and 2 of the Complaint and to argue that imposition of penalties is inappropriate for any count.

2. This Consent Agreement and Consent Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, including the requirement that Respondent upgrade existing UST systems by December 22, 1998, as required by 40 C.F.R. § 280.21(a). This Consent Agreement and Consent Order in no way limits

Complainant's right to initiate any action against Respondent for violations not specifically alleged in the Complaint, nor shall it limit Respondent's right to contest, defend and litigate actions against Respondent for violations not specifically alleged in the Complaint.

3. Respondent shall promptly comply with the requirements of 40 C.F.R. Part 280, Subpart D by implementing a method or a combination of methods of release detection for all UST systems and associated piping owned and/or operated by Respondent, including but not limited to all UST systems identified in Table 1. If Respondent believes that any of the UST systems listed in Table 1 are no longer owned and/or operated by Respondent, Respondent may submit, by September 1, 1994, documentation supporting such assertion to EPA for review. If EPA then agrees that any such UST system is not owned and/or operated by Respondent, EPA will inform Respondent of its determination in writing.

4. (a) Respondent represents that it will implement a method of release detection consisting of monthly inventory controls and annual tank tightness testing, as allowed under 40 C.F.R. § 280.41(a)(2). Respondent further represents that it will rely on a statistical analysis (denominated Statistical Inventory Reconciliation ("SIR")) which meets the standard of 40 C.F.R. § 280.43(c), in lieu of performing annual tank tightness testing, as a "test of equivalent performance" under § 280.43(c). Respondent represents that it has contracted with a third party

for such statistical analyses for all underground storage tank systems owned or operated by Respondent which are subject to the release detection requirements of 40 C.F.R. Part 280, and which have not either passed a tank tightness test within the previous twelve months or been subject to an alternative method of ongoing release detection which meets the standards of 40 C.F.R. §§ 280.41 and 280.43. Respondent further represents that as of March 1, 1994 it commenced compilation of accurate daily inventory volume measurements for each such UST system and that on or before May 7, 1994 Respondent will provide such compilation to its contractor for the SIR analyses at all of Respondent's facilities. In the event the compilation of daily inventory volume measurements for March 1994 are not fully satisfactory for the purposes of analyses, Respondent may submit measurements for April and May, 1994, for analyses. In that event, May data shall be submitted to the contractor no later than June 7, 1994.

(b) Respondent shall submit all results of such analyses promptly to EPA for review as soon as such analyses become available. Respondent also agrees to provide copies of any subsequent SIR analyses performed thereafter, as requested by EPA to determine compliance with the terms of this Consent Agreement and Consent Order and with 40 C.F.R. Part 280. In addition, Respondent shall provide to EPA, within fifteen (15) days or such longer period of time as EPA may establish, such further documentation as EPA may require to demonstrate Respondent's

compliance with release detection requirements. Nothing herein shall prevent Respondent from electing a different method of compliance in the future.

5. (a) Respondent shall, within thirty days of issuance of this Consent Agreement and Consent Order develop a plan for quality assurance/quality control (the "QA/QC Plan") with respect to inventory volume measurements and tank tightness testing, as described at 40 C.F.R. §§ 280.43(a) and (c). The Plan will address how Respondent will ensure accurate and timely inventory volume measurements and how Respondent will reconcile data to detect releases, and will indicate what immediate actions will be taken by Respondent to detect releases on each and every occasion that a SIR analysis renders an inconclusive result with respect to tank tightness under 40 C.F.R. § 280.43(c).

(b) The QA/QC Plan shall be subject to review and EPA shall promptly provide its written approval, disapproval, comments and/or modifications to the Respondent. Unless otherwise specified by EPA, the Respondent shall submit a revised document within twenty (20) days of its receipt of EPA's written comments and/or modifications, or disapproval. Any such revised document submitted by the Respondent shall incorporate changes responsive to EPA's comments and/or modifications. EPA may then approve the revised document or modify the document and approve it with any such modifications. Such revised document, as approved by EPA, shall become final. Alternatively, EPA may disapprove the resubmitted document and provide comments indicating the basis

for its disapproval, in which case Respondent shall submit a further revised document, which is responsive to EPA's comments, within ten (10) business days of its receipt of EPA's written comments. All final approvals shall be given to the Respondent in writing. The QA/QC Plan shall, upon approval by EPA, be implemented immediately by Respondent at all of Respondent's facilities.

6. (a) Respondent shall conduct within thirty days of EPA's approval of a site assessment protocol pursuant to this paragraph, site assessments at Respondent's facilities located at 3320 Atlantic Avenue, Brooklyn, New York (PBS # 191701) and 111-10 Springfield Boulevard, Queens, New York (PBS # 191728). Respondent represents that it has contracted for the services of Environmental Management Services to conduct site assessments at these facilities in accordance with the requirements of 40 C.F.R. § 280.72. EPA acknowledges receipt of a proposed protocol for such assessments, but has been unable to review it yet. Respondent agrees that the site assessments will be performed utilizing protocol(s) approved in advance in writing by EPA.

(b) EPA shall promptly provide Respondent its written approval, disapproval, comments and/or modifications to the site assessment protocol(s). Unless otherwise specified in writing by EPA, the Respondent shall submit a revised protocol(s) within ten (10) business days of its receipt of EPA's written comments and/or modifications. Any such revised document submitted by the Respondent shall incorporate changes responsive to EPA's comments

and/or modifications. EPA may then approve the revised document or modify the document and approve it with any such modifications. The revised document, as approved by EPA, shall become final. Alternatively, if EPA fails to approve or modify and approve the document, EPA may disapprove the resubmitted document and provide comments indicating the basis for its disapproval, in which case Respondent shall submit a further revised document, which is responsive to EPA's comments, within ten (10) business days of its receipt of EPA's written comments. All final approvals shall be given to the Respondent in writing. The site assessment protocol(s) shall, upon approval by EPA, be implemented promptly by Respondent at the two designated facilities. EPA shall be given at least two weeks' advance notice of the date and time of implementation at each facility, and shall be afforded the opportunity to be present at the time of implementation.

7. Respondent will timely: (1) report to the New York State Department of Environmental Conservation ("NYSDEC") all suspected or confirmed releases, spills or overfills required to be reported under 40 C.F.R. Part 280 Subpart E, with respect to any UST system owned or operated by Respondent, and within seven (7) days of such report to NYSDEC shall provide EPA with a written notice summarizing such report; written notice pursuant to this paragraph shall be sent to Chief, Hazardous Waste Compliance Branch, Air & Waste Management Division, U.S. Environmental Protection Agency, Region 2, 26 Federal Plaza, New

corrective measures, in full cooperation with NYSDEC and as required by 40 C.F.R Part 280, Subparts E and F.

8. Respondent agrees to pay stipulated penalties, which shall be deemed administrative expenses of Respondent for purposes of the pending Bankruptcy Proceeding, for its failure to comply with the terms of Paragraphs 3, 4, 5, or 6, of this Consent Agreement, as follows:

(a) For failure to provide a method or combination of methods of release detection in accordance with 40 C.F.R. §§ 280.41(a) and (b), Respondent shall pay \$10,000 per month for each UST system for which release detection is not provided, commencing as of June 1, 1994 and thereafter.

(b) For failure to provide EPA with documentation, that may be required pursuant to Paragraph 4(b) of this Consent Agreement, or to provide an explanation as to the unavailability of any such documentation, within the period specified by EPA pursuant to Paragraph 4 or such additional time period as agreed to by EPA, \$2,000 per facility.

(c) For failure to submit an acceptable QA/QC Plan within ten (10) business days following receipt of EPA's second round of comment and/or disapproval pursuant to Paragraph 5(b), Respondent shall pay a stipulated penalty of \$2,000 per day for the first sixty (60) days, and \$5,000 per day thereafter until such time as an approvable QA/QC Plan is submitted to EPA. Respondent shall not be in violation hereof so long as it submits a revised QA/QC

an approvable QA/QC Plan is submitted to EPA. Respondent shall not be in violation hereof so long as it submits a revised QA/QC Plan in a timely manner which addresses the reasons for disapproval and attempts to comply therewith in good faith.

(d) For failure to conduct the site assessments in accordance with the terms of Paragraph 6 of this Consent Agreement, Respondent shall pay \$25,000 per facility per month.

(e) If Respondent fails to comply with the terms of Paragraphs 3, 4, 5, or 6 of this Consent Agreement, Complainant shall notify Respondent and its counsel, Friedland Fishbein Laifer & Robbins, The Woolworth Building, 233 Broadway, New York, New York 10279, in writing, Certified Mail, Return Receipt Requested, of its finding that Respondent has failed to comply and the basis therefore, and shall specify which of the provisions has not been met. Respondent shall have twenty (20) days in which to provide Complainant with such explanation as Respondent deems appropriate. If Complainant then determines in writing that Respondent has failed to comply, Respondent shall pay the stipulated penalties, commencing from the date of Respondent's non-compliance, as set forth above.

(f) The imposition of stipulated penalties pursuant to this Consent Agreement and Consent Order in no way limits or waives EPA's right to seek any injunctive relief under any relevant authority. In addition, EPA may in its sole discretion elect to refund or forego stipulated penalties pursuant to this paragraph and to instead seek civil penalties in any enforcement action or

of this Consent Agreement, Respondent admits the Findings contained in Paragraphs 1 - 11 and 19 - 36, above, only, and explicitly reserves its right to contest liability as to Counts 1 and 2 of the Complaint, but waives the right to request a hearing on Counts 3 and 4 of the Complaint. Respondent further agrees that in the event the Bankruptcy Court does not approve the Stipulation and Order, Respondent shall respond to Complainant's pending Motion for Accelerated Decision as to Liability in this proceeding within one (1) week of the date the Bankruptcy Court disallows the Stipulation and Order, and that in such response Respondent shall concede liability as to Counts 3 and 4.

10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussion with, or to be served with and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Consent Order.

11. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

12. (a) In the event the Bankruptcy Court approves the Stipulation and Order in accordance with Paragraph 1 of this Consent Agreement, Respondent admits that it violated 40 C.F.R. §§ 280.41(a), 280.41(b), 280.70(c) and 280.34, and 42 U.S.C. § 6991d(a), as described in the Findings set forth in this Consent Agreement and Consent Order.

actions pursuant to 42 U.S.C. § 6991e or any other statutory authority, in which event Respondent reserves its right to contest such penalties and determination imposing such penalties.

9. (a) This Consent Agreement and Consent Order is being entered into by the parties in full settlement of all civil liabilities which might have attached as a result of the allegations in the Complaint issued in this case. Respondent has read the foregoing Agreement and consents to its issuance and its terms. Respondent agrees not to challenge the terms of this Consent Agreement and Consent Order in any action brought by the United States to enforce this Consent Agreement and Consent Order. Respondent admits the jurisdictional allegations of the Complaint, and Respondent agrees to pay the stipulated penalties specified in Paragraph 8, above, to the extent any such penalties become due. The terms of this Consent Agreement and Consent Order shall be enforceable in the United States District Court for the Southern District of New York.

(b) In the event the Bankruptcy Court approves the Stipulation and Order in accordance with the terms of Paragraph 1 of this Consent Agreement, Respondent admits all the Findings contained in this Consent Agreement and Consent Order. Respondent explicitly waives the right to request a hearing on this matter, and agrees to pay the penalty specified in Paragraph 1 of the Consent Agreement.

(c) In the event the Bankruptcy Court does not approve the Stipulation and Order in accordance with the terms of Paragraph 1

(b) In the event the Bankruptcy Court does not approve the Stipulation and Order in accordance with Paragraph 1 of this Consent Agreement, Respondent neither admits nor denies that it violated 40 C.F.R. §§ 280.41(a) and 280.41(b), but admits that it violated 40 C.F.R. §§ 280.70(c) and 280.34, and 42 U.S.C. § 6991d(a), as described in Paragraphs 1 - 11 and 19 - 36 of the Findings set forth in this Consent Agreement and Consent Order.

13. Each signatory to this Agreement certifies that he or she is fully authorized to enter into the terms of this Agreement.

RESPONDENT

GASETERIA OIL CORPORATION

By:


(signature)

Name:

Oscar Porcelli
(Please Print)

Title:

President

Date:

3-31-94

COUNSEL FOR RESPONDENT:

FRIEDLAND FISHBURN LAIFER & ROBBINS

By:


Seth D. Friedland

Date:

3/31/94

BANKRUPTCY COUNSEL FOR RESPONDENT:

RATTET & COMPANY, P.C.



Robert L. Rattet, Esq.

Date:

3/31/94

COMPLAINANT:

By:


Jeanne M. Fox
William J. Maszynski, P.E.
Acting Regional Administrator
United States Environmental
Protection Agency - Region II
26 Federal Plaza
New York, New York 10278

Date:

4/28/94

TABLE 1

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
<u>*2820 Atlantic Ave., Brooklyn</u>			
191485	1	08/59	12/89
191485	2	08/59	12/89
191485	3	08/59	12/89
191485	4	08/59	12/89
191485	5	08/59	12/89
191485	6	08/59	12/89
<u>*2326 First Ave., Manhattan</u>			
191574	5	unknown	12/89
<u>*152 Union Ave., Brooklyn</u>			
191612	1	09/64	12/89
191612	2	09/64	12/89
191612	3	09/64	12/89
191612	4	09/64	12/89
191612	5	09/64	12/89
191612	6	09/64	12/89
191612	7	09/64	12/89
191612	8	09/64	12/89
191612	9	09/64	12/89
191612	10	09/64	12/89
191612	11	09/64	12/89
191612	12	09/64	12/89
<u>*2111 Hylan Blvd., Staten Island</u>			
191671	1	04/62	12/89
191671	2	04/62	12/89
191671	3	04/62	12/89
191671	4	04/62	12/89
191671	5	04/62	12/89
191671	6	04/62	12/89
191671	7	04/62	12/89
191671	8	04/62	12/89
191671	9	04/62	12/89
191671	10	04/62	12/89
191671	11	04/62	12/89
191671	12	04/62	12/89

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
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*2138 Jerome Ave., Bronx

191779	1	12/55	12/89
191779	2	12/55	12/89
191779	3	12/55	12/89
191779	4	12/55	12/89
191779	5	12/55	12/89
191779	6	12/55	12/89
191779	7	12/55	12/89
191779	8	12/55	12/89
191779	9	12/55	12/89
191779	10	12/55	12/89
191779	11	12/55	12/89

*8521 7th Ave., Brooklyn

456934	1	unknown	12/89
456934	2	unknown	12/89
456934	3	unknown	12/89
456934	4	unknown	12/89
456934	5	unknown	12/89
456934	6	unknown	12/89
456934	7	unknown	12/89
456934	8	unknown	12/89
456934	9	unknown	12/89
456934	10	unknown	12/89
456934	11	unknown	12/89

*77-11 Roosevelt Ave., Queens

456950	2	12/63	12/89
456950	3	12/63	12/89
456950	4	12/63	12/89
456950	5	12/63	12/89
456950	6	12/63	12/89
456950	7	12/63	12/89
456950	8	12/63	12/89
456950	9	12/63	12/89
456950	10	12/63	12/89

*1049 Grand Ave., Brooklyn

456969	1	unknown	12/89
456969	2	unknown	12/89
456969	3	unknown	12/89
456969	4	unknown	12/89
456969	5	unknown	12/89
456969	6	unknown	12/89
456969	7	unknown	12/89
456969	8	unknown	12/89
456969	9	unknown	12/89
456969	10	unknown	12/89
456969	11	unknown	12/89
456969	12	unknown	12/89

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
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*1049 Grand Ave., Brooklyn - Cont'd

456969	13	unknown	12/89
456969	14	unknown	12/89
456969	15	unknown	12/89
456969	16	unknown	12/89
456969	17	unknown	12/89
456969	18	unknown	12/89

*6501 13th Ave., Brooklyn

480185	1	unknown	12/89
480185	2	unknown	12/89
480185	3	unknown	12/89
480185	4	unknown	12/89
480185	5	unknown	12/89
480185	6	unknown	12/89
480185	7	unknown	12/89
480185	8	unknown	12/89
480185	9	unknown	12/89
480185	10	unknown	12/89

*1601 86th St., Brooklyn

480193	1	unknown	12/89
480193	2	unknown	12/89
480193	3	unknown	12/89
480193	4	unknown	12/89
480193	5	unknown	12/89
480193	6	unknown	12/89
480193	7	unknown	12/89
480193	8	unknown	12/89
480193	9	unknown	12/89
480193	10	unknown	12/89

*2235 Flatbush Ave., Brooklyn

480207	1	unknown	12/89
480207	2	unknown	12/89
480207	3	unknown	12/89
480207	4	unknown	12/89
480207	5	unknown	12/89
480207	6	unknown	12/89
480207	7	unknown	12/89
480207	8	unknown	12/89
480207	9	unknown	12/89
480207	10	unknown	12/89
480207	11	unknown	12/89

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
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*6501 Bay Parkway, Brooklyn

480215	1	unknown	12/89
480215	2	unknown	12/89
480215	3	unknown	12/89
480215	4	unknown	12/89
480215	5	unknown	12/89
480215	6	unknown	12/89
480215	7	unknown	12/89
480215	8	unknown	12/89
480215	9	unknown	12/89
480215	10	unknown	12/89
480215	11	unknown	12/89
480215	12	unknown	12/89

*43-07 Astoria Blvd., Queens

480223	1	unknown	12/89
480223	2	unknown	12/89
480223	3	unknown	12/89
480223	4	unknown	12/89
480223	5	unknown	12/89
480223	6	unknown	12/89
480223	7	unknown	12/89
480223	8	unknown	12/89
480223	9	unknown	12/89

*72-10 Beach Channel Dr., Queens

480266	1	unknown	12/89
480266	2	unknown	12/89
480266	3	unknown	12/89
480266	4	unknown	12/89
480266	5	unknown	12/89

*1105 60th St., Brooklyn

480282	1	unknown	12/89
480282	2	unknown	12/89
480282	3	unknown	12/89
480282	4	unknown	12/89
480282	5	unknown	12/89
480282	6	unknown	12/89
480282	7	unknown	12/89
480282	8	unknown	12/89
480282	9	unknown	12/89
480282	10	unknown	12/89
480282	11	unknown	12/89

NYSPBS#	TANK #	DATE INSTALLED	DATE LD REQUIRED
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*63-13 5th Ave., Brooklyn

480304	1	unknown	12/89
480304	2	unknown	12/89
480304	3	unknown	12/89
480304	4	unknown	12/89
480304	5	unknown	12/89
480304	6	unknown	12/89
480304	7	unknown	12/89
480304	8	unknown	12/89
480304	9	unknown	12/89
480304	10	unknown	12/89
480304	11	unknown	12/89
480304	12	unknown	12/89

*537 Prospect Ave., Bronx

480320	1	unknown	12/89
480320	2	unknown	12/89
480320	3	unknown	12/89
480320	4	unknown	12/89
480320	5	unknown	12/89
480320	6	unknown	12/89
480320	7	unknown	12/89
480320	8	unknown	12/89
480320	9	unknown	12/89
480320	10	unknown	12/89
480320	11	unknown	12/89
480320	12	unknown	12/89
480320	13	unknown	12/89
480320	14	unknown	12/89

*33-21 21st Street, Queens

480428	1	unknown	12/89
480428	2	unknown	12/89
480428	3	unknown	12/89
480428	4	unknown	12/89
480428	5	unknown	12/89
480428	6	unknown	12/89
480428	7	unknown	12/89
480428	8	unknown	12/89

*59-36 Maurice Ave., Queens

480487	1	unknown	12/89
480487	2	unknown	12/89
480487	3	unknown	12/89
480487	4	unknown	12/89
480487	5	unknown	12/89
480487	6	unknown	12/89
480487	7	unknown	12/89
480487	8	unknown	12/89
480487	9	unknown	12/89

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
<u>*59-36 Maurice Ave., Queens - Cont'd</u>			
480487	10	unknown	12/89
480487	11	unknown	12/89
480487	12	unknown	12/89
480487	13	unknown	12/89
<u>*417 Dahill Rd., Brooklyn</u>			
481467	1	unknown	12/89
481467	2	unknown	12/89
481467	3	unknown	12/89
481467	4	unknown	12/89
481467	5	unknown	12/89
481467	6	unknown	12/89
481467	7	unknown	12/89
481467	8	unknown	12/89
481467	9	unknown	12/89
481467	10	unknown	12/89
481467	11	unknown	12/89
481467	12	unknown	12/89
481467	13	unknown	12/89
<u>*364 E. 161st St., Manhattan</u>			
188697	6	12/66	12/90
<u>*58-01 Northern Blvd., Queens</u>			
191752	1	12/65	12/90
191752	2	12/65	12/90
<u>*6778 Hylan Blvd., Staten Island</u>			
191213	1	02/71	12/91
191213	2	02/71	12/91
191213	3	02/71	12/91
<u>*756 Utica Ave., Brooklyn</u>			
191248	1	02/71	12/91
191248	2	02/72	12/91
191248	3	02/72	12/91
<u>*3327 Conner St., Bronx</u>			
191272	1	08/72	12/91
191272	2	08/72	12/91
191272	3	08/72	12/91
191272	4	08/72	12/91
191272	5	08/72	12/91

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
<u>*281 Bruckner Blvd., Bronx</u>			
191280	1	01/74	12/91
191280	2	01/74	12/91
191280	3	01/74	12/91
191280	4	01/74	12/91
191280	5	01/74	12/91
<u>*1734-1738 Jerome Ave., Bronx</u>			
191337	1	12/71	12/91
191337	2	12/71	12/91
<u>*154-09 Union Turnpike, Queens</u>			
191442	1	12/71	12/91
<u>*2063 Stillwell, Brooklyn</u>			
191477	1	10/72	12/91
<u>*601 E. Fordham Rd., Bronx</u>			
191493	1	04/71	12/91
191493	2	04/73	12/91
191493	3	04/73	12/91
<u>*493 E. 168th St., Bronx</u>			
191507	1	08/71	12/91
191507	2	08/71	12/91
191507	3	08/71	12/91
<u>*670 Coney Island Ave., Brooklyn</u>			
191523	1	06/70	12/91
191523	2	06/70	12/91
191523	3	06/70	12/91
<u>*43 Empire Blvd., Brooklyn</u>			
191760	1	07/72	12/91
191760	2	07/72	12/91
191760	3	07/72	12/91
191760	4	07/72	12/91
191760	5	07/72	12/91
191760	6	07/72	12/91
191760	7	07/72	12/91
191760	8	07/72	12/91
191760	9	07/72	12/91
191760	10	07/72	12/91
191760	11	07/72	12/91
191760	12	07/72	12/91
<u>*4115 Third Ave., Bronx</u>			
340073	5	04/74	12/91

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
<u>*91 Westchester Square, Bronx</u>			
191299	1	06/71	12/91
191299	2	06/71	12/91
191299	3	06/71	12/91
191299	4	12/55	12/89
191299	5	12/55	12/89
191299	6	12/55	12/89
191299	7	12/55	12/89
<u>*99-49 Horace Harding Expy., Queens</u>			
191566	1	11/73	12/91
191566	2	11/73	12/91
191566	3	11/73	12/91
<u>*2 West End Ave., Manhattan</u>			
191582	1	04/71	12/91
191582	2	07/74	12/91
191582	3	07/74	12/91
<u>*1326 Ocean Ave., Brooklyn</u>			
191620	1	09/70	12/91
191620	2	09/70	12/91
<u>*466 Tenth Ave., Manhattan</u>			
191639	1	2/71	12/91
191639	2	6/67	12/90
191639	3	6/67	12/90
191639	4	6/67	12/90
191639	5	6/67	12/90
191639	6	6/67	12/90
191639	7	6/67	12/90
191639	8	6/67	12/90
191639	9	6/67	12/90
191639	10	6/67	12/90
191639	11	6/67	12/90
191639	12	6/67	12/90
191639	13	6/67	12/90
<u>*2131 Jerome Ave., Bronx</u>			
191663	1	10/74	12/91
191663	2	10/74	12/91
191663	3	10/74	12/91

<u>NYSPBS#</u>	<u>TANK #</u>	<u>DATE INSTALLED</u>	<u>DATE LD REQUIRED</u>
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*61-20 Fresh Meadow Lane, Queens

456942	2	12/71	12/91
456942	3	12/73	12/91
456942	4	12/73	12/91
456942	5	unknown	12/89

*3802 Avenue U, Brooklyn

481483	1	unknown	12/89
481483	2	unknown	12/89
481483	3	unknown	12/89
481483	4	unknown	12/89
481483	5	unknown	12/89

TABLE 2

3320 Atlantic Avenue, Brooklyn


191701	1
191701	2
191701	3
191701	4
191701	5
191701	6
191701	7
191701	8
191701	9
191701	10

111-10 Springfield Boulevard, Queens

191728	1
191728	2
191728	3
191728	4
191728	5
191728	6
191728	7
191728	8
191728	9
191728	10

CONSENT ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region II, concurs in the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved and issued, as an Order, effective immediately.



JEANNE M. FOX
Regional Administrator
U.S. Environmental Protection
Agency - Region 2
26 Federal Plaza
New York, New York 10278

DATE: _____



PENALTY COMPUTATION WORKSHEET COUNT 1A

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corporation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 12/22/89
Date of Record Review: 06/16/92

1. Days of noncompliance: 907
2. Number of Tanks: 125

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures (per UST or facility):	\$550.00	Basis:	UST test cost estimate
Delayed Expenditures (per UST or facility):	\$	Basis:	
Weighted Tax Rate:	34.00	Source:	
Interest Rate:	12.10	Source:	Equity discount rate.

3. Calculated Avoided Cost: \$68,750.00
AC = Avoided Expenditures x Number of USTs

4. Calculated Delayed Cost: \$.00
DC = (Delayed Expenditures x Interest x Days)/365 days

5. Economic Benefit Component: \$127,943.00
From EPA's BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

	Extent of Deviation		
	Major	Moderate	Minor
Potential for Harm: Major	\$1500	\$1000	\$500
Moderate	750	500	250
Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$187,500
Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	% Change (+/-)	Total Tank Matrix Value	Dollar Adjustment
8. Degree of cooperation or noncooperation:	0	\$187,500	\$0.00
9. Degree of willfulness or negligence:	0	\$187,500	\$0.00
10. History of noncompliance:	0	\$187,500	\$0.00
11. Unique factors:	0	\$187,500	\$0.00
12. Adjusted Matrix Value:			\$187,500.00
			0

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: High

13. Environmental Sensitivity Multiplier (ESM): 2

14. Days of Noncompliance Multiplier (DNM): 4

15. Gravity-Based Component: \$1,500,000.00
Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- 16. Economic Benefit Component: \$127,943.00
- 17. Gravity-Based Component: \$1,500,000.00
- 18. Initial Penalty Target Figure: \$1,627,943.00

NARRATIVE TO SUPPORT COMPLAINT AMOUNT

Regulation Violated: 40 C.F.R. § 280.41(a)

Failure to monitor tanks at least every 30 days.

PART 2: ECONOMIC BENEFIT COMPONENT

Justification for Economic Benefit: The economic benefit derived from non-compliance with UST system tightness testing requirements was calculated by obtaining three cost estimates from NYSDEC licensed UST system tightness testing contractors. These values were then input into EPA's BEN computer model to determine actual economic benefit derived from the initial date of non-compliance.

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Justification for Potential for Harm: As per OSWER Directive 9610.12

Justification for Extent of Deviation: As per OSWER Directive 9610.12

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

Justification for Degree of Cooperation/Noncooperation:

Justification for Degree of Willfulness or Negligence:

PART 5: GRAVITY-BASED COMPONENT

Justification for Level of Environmental Sensitivity: USTs located above an EPA designated sole source aquifer.

PENALTY COMPUTATION WORKSHEET COUNT 1B

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corporation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 12/22/89
Date of Record Review: 06/16/92

1. Days of noncompliance: 907
2. Number of Tanks: 49

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures (per UST or facility):	\$550.00	UST test cost estimate
Delayed Expenditures (per UST or facility):	\$	Basis:
Weighted Tax Rate:	34.00	Source:
Interest Rate:	12.10	Source: Equity discount rate.

3. Calculated Avoided Cost: \$26,950.00

$$AC = \text{Avoided Expenditures} \times \text{Number of USTs}$$

4. Calculated Delayed Cost: \$.00

$$DC = (\text{Delayed Expenditures} \times \text{Interest} \times \text{Days}) / 365 \text{ days}$$

5. Economic Benefit Component: \$50,154.00
Calculated using EPA BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

Extent of Deviation

	Major	Moderate	Minor
Potential for Harm			
Major	\$1500	\$1000	\$500
Moderate	750	500	250
Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$73,500

Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	% Change (+/-)	Total Tank Matrix Value	Dollar Adjustment
8. Degree of cooperation or noncooperation:	0	\$73,500	\$0.00
9. Degree of willfulness or negligence:	0	\$73,500	\$0.00
10. History of noncompliance:	0	\$73,500	\$0.00
11. Unique factors:	0	\$73,500	\$0.00
12. Adjusted Matrix Value:			\$73,500.00

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: Low

13. Environmental Sensitivity Multiplier (ESM): 1

14. Days of Noncompliance Multiplier (DNM): 4

15. Gravity-Based Component: \$294,000.00

Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- | | |
|------------------------------------|--------------|
| 16. Economic Benefit Component: | \$50,154.00 |
| 17. Gravity-Based Component: | \$294,000.00 |
| 18. Initial Penalty Target Figure: | \$344,154.00 |

NARRATIVE TO SUPPORT COMPLAINT AMOUNT

Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

PART 2: ECONOMIC BENEFIT COMPONENT

Justification for Economic Benefit: The economic benefit derived from non-compliance with UST system tightness testing requirements was calculated by obtaining three cost estimates from NYSDEC licensed UST system tightness testing contractors. These values were then input into EPA's BEN computer model to determine actual economic benefit derived from the initial date of non-compliance.

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Justification for Potential for Harm: As per OSWER Directive 9610.12

Justification for Extent of Deviation: As per OSWER Directive 9610.12

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

Justification for Degree of Cooperation/Noncooperation:

Justification for Degree of Willfulness or Negligence:

PART 5: GRAVITY-BASED COMPONENT

Justification for Level of Environmental Sensitivity: As per OSWER Directive 9610.12

PENALTY COMPUTATION WORKSHEET COUNT 1C

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corperation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 01/01/90
Date of Record Review: 06/16/92

1. Days of noncompliance: 897
2. Number of Tanks: 5

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures
(per UST or facility): \$550.00 Basis: UST test cost estimate
Delayed Expenditures
(per UST or facility): \$ Basis:
Weighted Tax Rate: 34.00 Source:
Interest Rate: 12.10 Source: Equity discount rate.

3. Calculated Avoided Cost: \$2,750.00

AC = Avoided Expenditures x Number of USTs

4. Calculated Delayed Cost: \$.00

DC = (Delayed Expenditures x Interest x Days)/365 days

5. Economic Benefit Component: \$5,125.00

From EPA BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

		Extent of Deviation		
		Major	Moderate	Minor
Potential for Harm	Major	\$1500	\$1000	\$500
	Moderate	750	500	250
	Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$7,500

Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	% Change (+/-)	Total Tank Matrix Value	Dollar Adjustment
8. Degree of cooperation or noncooperation:	0	\$7,500	\$0.00
9. Degree of willfulness or negligence:	0	\$7,500	\$0.00
10. History of noncompliance:	0	\$7,500	\$0.00
11. Unique factors:	0	\$7,500	\$0.00
12. Adjusted Matrix Value:			\$7,500.00

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: High

13. Environmental Sensitivity Multiplier (ESM): 2

14. Days of Noncompliance Multiplier (DNM): 4

15. Gravity-Based Component: \$60,000.00

Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- | | |
|------------------------------------|-------------|
| 16. Economic Benefit Component: | \$5,125.00 |
| 17. Gravity-Based Component: | \$60,000.00 |
| 18. Initial Penalty Target Figure: | \$65,125.00 |

NARRATIVE TO SUPPORT COMPLAINT AMOUNT

Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

PART 2: ECONOMIC BENEFIT COMPONENT

Justification for Economic Benefit: The economic benefit derived from non-compliance with UST system tightness testing requirements was calculated by obtaining three cost estimates from NYSDEC licensed UST system tightness testing contractors. These values were then input into EPA's BEN computer model to determine actual economic benefit derived from the initial date of non-compliance.

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Justification for Potential for Harm: As per OSWER Directive 9610.12

Justification for Extent of Deviation: As per OSWER Directive 9610.12

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

Justification for Degree of Cooperation/Noncooperation:

Justification for Degree of Willfulness or Negligence:

PART 5: GRAVITY-BASED COMPONENT

Justification for Level of Environmental Sensitivity: USTs located above an EPA designated sole source aquifer.

PENALTY COMPUTATION WORKSHEET COUNT 1D

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corporation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 03/01/90
Date of Record Review: 06/16/92

1. Days of noncompliance: 838
2. Number of Tanks: 13

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures (per UST or facility):	\$550.00	Basis: UST test cost estimate
Delayed Expenditures (per UST or facility):	\$	Basis:
Weighted Tax Rate:	34.00	Source:
Interest Rate:	12.10	Source: Equity discount rate.

3. Calculated Avoided Cost: \$7,150.00

AC = Avoided Expenditures x Number of USTs

4. Calculated Delayed Cost: \$.00

DC = (Delayed Expenditures x Interest x Days)/365 days

5. Economic Benefit Component: \$11,808.00

From EPA's BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

		<i>Extent of Deviation</i>		
		Major	Moderate	Minor
<i>Potential for Harm</i>	Major	\$1500	\$1000	\$500
	Moderate	750	500	250
	Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$19,500

Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	<i>% Change (+/-)</i>	<i>Total Tank Matrix Value</i>	<i>Dollar Adjustment</i>
8. Degree of cooperation or noncooperation:	0	\$19,500	\$0.00
9. Degree of willfulness or negligence:	0	\$19,500	\$0.00
10. History of noncompliance:	0	\$19,500	\$0.00
11. Unique factors:	0	\$19,500	\$0.00
12. Adjusted Matrix Value:			\$19,500.00

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: High

13. Environmental Sensitivity Multiplier (ESM): 2

14. Days of Noncompliance Multiplier (DNM): 4

15. Gravity-Based Component: \$156,000.00

Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- | | |
|------------------------------------|--------------|
| 16. Economic Benefit Component: | \$11,808.00 |
| 17. Gravity-Based Component: | \$156,000.00 |
| 18. Initial Penalty Target Figure: | \$167,808.00 |

NARRATIVE TO SUPPORT COMPLAINT AMOUNT

Regulation Violated: 40 C.F.R. § 280.41(a)

Failure to monitor tanks at least every 30 days.

PART 2: ECONOMIC BENEFIT COMPONENT

Justification for Economic Benefit: The economic benefit derived from non-compliance with UST system tightness testing requirements was calculated by obtaining three cost estimates from NYSDEC licensed UST system tightness testing contractors. These values were then input into EPA's BEN computer model to determine actual economic benefit derived from the initial date of non-compliance.

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Justification for Potential for Harm: As per OSWER Directive 9610.12

Justification for Extent of Deviation: As per OSWER Directive 9610.12

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

Justification for Degree of Cooperation/Noncooperation:

Justification for Degree of Willfulness or Negligence:

PART 5: GRAVITY-BASED COMPONENT

Justification for Level of Environmental Sensitivity: USTs located above an EPA designated sole source aquifer.

PENALTY COMPUTATION WORKSHEET COUNT 1E

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corporation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 07/01/90
Date of Record Review: 06/16/92

1. Days of noncompliance: 716
2. Number of Tanks: 13

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures (per UST or facility):	\$550.00	Basis: UST test cost estimate
Delayed Expenditures (per UST or facility):	\$	Basis:
Weighted Tax Rate:	34.00	Source:
Interest Rate:	12.10	Source: Equity discount rate.

3. Calculated Avoided Cost: \$7,150.00

AC = Avoided Expenditures x Number of USTs

4. Calculated Delayed Cost: \$.00

DC = (Delayed Expenditures x Interest x Days)/365 days

5. Economic Benefit Component: \$9,389.00

From EPA's BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

		<i>Extent of Deviation</i>		
		Major	Moderate	Minor
<i>Potential for Harm</i>	Major	\$1500	\$1000	\$500
	Moderate	750	500	250
	Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$19,500

Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	<i>% Change (+/-)</i>	<i>Total Tank Matrix Value</i>	<i>Dollar Adjustment</i>
8. Degree of cooperation or noncooperation:	0	\$19,500	\$0.00
9. Degree of willfulness or negligence:	0	\$19,500	\$0.00
10. History of noncompliance:	0	\$19,500	\$0.00
11. Unique factors:	0	\$19,500	\$0.00
12. Adjusted Matrix Value:			\$19,500.00

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: High

13. Environmental Sensitivity Multiplier (ESM): 2

14. Days of Noncompliance Multiplier (DNM): 3.5

15. Gravity-Based Component: \$136,500.00

Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- | | |
|------------------------------------|--------------|
| 16. Economic Benefit Component: | \$9,389.00 |
| 17. Gravity-Based Component: | \$136,500.00 |
| 18. Initial Penalty Target Figure: | \$145,889.00 |

NARRATIVE TO SUPPORT COMPLAINT AMOUNT

Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

PART 2: ECONOMIC BENEFIT COMPONENT

Justification for Economic Benefit: The economic benefit derived from non-compliance with UST system tightness testing requirements was calculated by obtaining three cost estimates from NYSDEC licensed UST system tightness testing contractors. These values were then input into EPA's BEN computer model to determine actual economic benefit derived from the initial date of non-compliance.

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Justification for Potential for Harm: As per OSWER Directive 9610.12

Justification for Extent of Deviation: As per OSWER Directive 9610.12

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

Justification for Degree of Cooperation/Noncooperation:

Justification for Degree of Willfulness or Negligence:

PART 5: GRAVITY-BASED COMPONENT

Justification for Level of Environmental Sensitivity: USTs located above an EPA designated sole source aquifer.

PENALTY COMPUTATION WORKSHEET

COUNT 1F

PART 1: BACKGROUND

Respondent's Name: Gaseteria Oil Corporation
Regulation Violated: 40 C.F.R. § 280.41(a)
Failure to monitor tanks at least every 30 days.

Previous Violations:

Date of Requirement: 10/01/90
Date of Record Review: 06/16/92

1. Days of noncompliance: 624
2. Number of Tanks: 5

PART 2: ECONOMIC BENEFIT COMPONENT

Avoided Expenditures		
(per UST or facility):	\$550.00	Basis: UST test cost estimate
Delayed Expenditures		
(per UST or facility):	\$	Basis:
Weighted Tax Rate:	34.00	Source:
Interest Rate:	12.10	Source: Equity discount rate.

3. Calculated Avoided Cost: \$2,750.00

AC = Avoided Expenditures x Number of USTs

4. Calculated Delayed Cost: \$.00

DC = (Delayed Expenditures x Interest x Days)/365 days

5. Economic Benefit Component: \$3,611.00

From EPA's BEN computer model

PART 3: MATRIX VALUE FOR THE GRAVITY-BASED COMPONENT

Potential for Harm: Major Extent of Deviation: Major

Matrix Value Table:

Extent of Deviation

	Major	Moderate	Minor
<i>Potential for Harm</i>			
Major	\$1500	\$1000	\$500
Moderate	750	500	250
Minor	200	100	50

6. Matrix Value (MV): \$1,500

7. Total MV: \$7,500

Total MV = Number of tanks (or facilities) x MV

PART 4: VIOLATOR-SPECIFIC ADJUSTMENTS TO MATRIX VALUE

	<i>% Change (+/-)</i>	<i>Total Tank Matrix Value</i>	<i>Dollar Adjustment</i>
8. Degree of cooperation or noncooperation:	0	\$7,500	\$0.00
9. Degree of willfulness or negligence:	0	\$7,500	\$0.00
10. History of noncompliance:	0	\$7,500	\$0.00
11. Unique factors:	0	\$7,500	\$0.00
12. Adjusted Matrix Value:			\$7,500.00

Adjusted Matrix Value = Total MV + Dollar Adjustments

PART 5: GRAVITY-BASED COMPONENT

Level of Environmental Sensitivity: Low

13. Environmental Sensitivity Multiplier (ESM): 1

14. Days of Noncompliance Multiplier (DNM): 3.5

15. Gravity-Based Component: \$26,250.00

Gravity-based Component = Adjusted Matrix Value x ESM x DNM

PART 6: INITIAL PENALTY TARGET FIGURE

- | | |
|------------------------------------|-------------|
| 16. Economic Benefit Component: | \$3,611.00 |
| 17. Gravity-Based Component: | \$26,250.00 |
| 18. Initial Penalty Target Figure: | \$29,861.00 |

